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ABSTRACT

This study of incarcerated children in New York State includes the following findings, conclusions, and recommendations: (1) too many youth are unnecessarily sent to secure detention; (2) too many stay too long, and while there receive too little in the way of programming or diagnostic assessment which could contribute to appropriate family court decisions; (3) the backlog of youth waiting to be sent from detention to placement has reached critical proportions; (4) needless and excessive reliance on secure detention requires development of new statutory criteria for admission, which permit detention only when there is a compelling reason to believe the youth will not appear in court or will commit a violent crime; (5) ongoing monitoring of admissions and length of stay must be instituted and attention must be paid to the disproportionate detention of minorities and girls; and (6) detention must not be viewed as a solution to the problem of violent crime, since 75 percent of admissions are not charged with serious or violent offenses but are still held in detention centers. Program offerings and daily procedures in secure institutions are described. (PS)

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INCARCERATING CHILDREN: A STUDY OF THE NEW YORK STATE SECURE DETENTION SYSTEM

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A
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INCARCERATING CHILDREN

A Study of the New York State Secure Detention System

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Juvenile Justice Monitoring Project**

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Eve E. Block
Executive Director

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PREFACE

*Is it nothing for a child to be
a child while he is yet a child?*

—Rousseau

In the United States, approximately half a million children are admitted to detention facilities yearly. At this time, about 12,000 children are being held in over 300 detention centers in the nation. In New York State alone, 12,740 detention admissions were recorded in 1979;¹ and 8,551 of those were admissions to secure detention.

While the majority of detained youth in the state's secure detention system² in 1979 were 14-to-15 years old, some were as young as 10. Three out of every four youths were male members of minority groups. Fewer than one out of four were accused of a serious crime.³ Fifty percent were released from detention in three days or less. After adjudication, less than 9% were sent to any type of secure placement.⁴ New York State costs for maintaining youth in secure detention generally range between \$90 and \$120 per day and can reach \$180 per day.

Youths held in detention are deprived of their liberty prior to adjudication by family court. They are held without chance of bail.⁵ Such a restriction of freedom, coming as it does before the court has found the youth guilty of the alleged offense, should be imposed only as a last resort. And yet these statistics suggest that such is not the case.

In 1979, responding to community concerns and figures such as those given above, Statewide Youth Advocacy, Inc. undertook a study of the secure detention system in New York State. SYA's monitoring project used juvenile justice standards as the criteria by which it evaluated current detention operations. Monitoring teams composed of local as well as SYA monitors visited each of the state's seven secure centers. There were two major objectives to this project: the methodology was to serve as a model for further independent monitoring of detention and the study's findings were to be the basis for carefully documented recommendations for reform of the state's detention policies and practices.

This publication is a summary of Statewide Youth Advocacy, Inc.'s complete Detention Monitoring Study and gives the major findings, conclusions, and recommendations of that report. The methodology employed for the study is explained in Section One of this summary which also includes a brief description of the detention system and the criteria and procedures for admission. Section Two analyzes the admissions data provided by the Division for Youth and the intake information gained from the monitoring interviews. Section Three discusses the procedures and programs found within the various facilities. Although we expected that specific advocacy efforts within given communities would result from this study, our efforts were designed primarily to generate changes within the detention system as a whole. For this reason, the report seldom identifies particular institutions and focuses instead on systemic issues.

It is important to begin the report with one general conclusion: the detention issues seen in New York State today are not those of denial of basic physical needs, or of the presence of physical mistreatment. As far as we could see, the youth were adequately fed, clothed, and cared for; nor were they sexually molested or subjected to harsh physical

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1. See table 2; note that this figure is a combined total for both secure and non-secure and represents admissions rather than individual youth, some of whom are admitted more than once.
 2. This report is a study of secure detention in New York State; consequently, unless otherwise indicated, figures are for the secure detention system.
 3. This figure includes those charged as juvenile offenders.
 4. Substantiation for the data in this paragraph can be found in the following tables: Table 4, Table 5, and Table 6 of this report, and in Tables 10 and 16 of the SYA complete report.
 5. Except for juvenile offenders.

punishment.⁶ For this we commend the detention administrators and staff and the Division for Youth which oversees the system.

Nonetheless, there are serious problems with the detention system. The most basic and important of these is the extensive overuse of detention in New York State. The failure to provide quality legal representation for detained youth, the unnecessary restrictions of personal freedom, the weakness of programs, particularly in education, and the absence of adequate supportive mental health services are all problems endemic to the system. Of immediate and urgent concern is the growing backlog of sentenced juvenile offenders (and less critically, of post-adjudicated delinquents) waiting for placement with the Division for Youth. It is such specific issues as these which this report will address.

Central to an understanding of the perspective from which we approached our data is recognition of the fact that no matter how well-intentioned its administration, **secure detention is imprisonment**. It is handcuffs from court to facility and a strip-search upon admission. It is lack of freedom, choice, and spontaneity. It is separation from familiar surroundings, from parents, from siblings, and from friends. It is stale air and limited access to the outdoors; regulation, regimentation, and routine. It is administrative convenience taking precedence over personal preference. It is constant watching and lack of privacy; toilet cubicles without doors, restrictions against private conversations, and monitored phone calls and mail. It is dependency upon a legal system which often does not take seriously the legal representation of its youth. Detention is temporariness; the limbo of not knowing, of living with anxiety and uncertainty about what will happen next, of being outside one's world.

Secure detention is incarceration within a system traditionally hidden from public view and legislative scrutiny. It is essential, therefore, that there be safeguards to prevent unnecessary detention and to protect the children who are within that system. If this report serves as a catalyst to the development of those safeguards, it will have served its purpose.

6. The exception to this, though not seen by us, are alleged incidents of abuse connected with Spofford, cited in the Citizens' Committee for Children of New York, Inc. report: "On the City's Spofford Juvenile Detention Center: An Urgent Appeal for Supportive Action," May 15, 1980, p. 1.

SECTION ONE

Chapter One: Methodology

Use of Standards as Monitoring Criteria

The juvenile justice literature of the past ten years contains many private and public organization and commission reports criticizing detention practices throughout the nation.

The detention of juveniles... represents one of the most serious problems in the administration of juvenile justice... [it is] caused or compounded by profound defects in the system of juvenile justice itself: in the inadequacy of the information and the decision-making process that leads to detention; in the delays between arrest and ultimate disposition; and in the lack of visibility and accountability that pervades the process. (ABA, Interim Status, 1979: 1-12)

In addition to identifying problems and making recommendations, many organizations have developed standards and goals for juvenile detention. These standards address a wide range of issues: admissions criteria, policy, and practices; legal representation; physical aspects of facilities; operating procedures; employee standards and training; length of stay; visitation and correspondence policies and practices; disciplinary procedures and residents' rights; food and medical services; education and recreation; and counseling services.

SYA's study of secure detention in New York State began with an extensive review of these various juvenile justice standards on detention. From these, selected standards were compiled in a set to be used as the evaluative criteria for monitoring the secure detention facilities. This standards set was based primarily on guidelines developed by the Institute of Judicial Administration/American Bar Association (IJA/ABA) and published in the Juvenile Justice Standards Project Report (JJSP).⁷ These standards were selected as the basis for the SYA composite set of standards because they are the most current and because their underlying philosophy is consonant with that of the SYA staff. The SYA composite standards also incorporated guidelines from the standards developed by six other organizations.⁸

The research staff grouped the selected standards in subject areas and then incorporated into that composite set the New York State rules, regulations, and statutes governing secure detention. When it was necessary to decide between conflicting standards, there was an attempt to reach a fair balance between the interests of the detained youth and the concern for community safety.

Development of Interview Schedules

The composite set of standards and regulations, together with insights from the literature review, were the basis for developing interview schedules. These were individual, detailed questionnaires addressing each of the major aspects of the operation of secure detention facilities, including: admission criteria, intake, recreation, food services, health services, staffing, training, administration, child care, physical plant, caseworkers, residents' rights, and disciplinary procedures. In total, sixteen separate questionnaires were prepared and used in the monitoring interviews. The use of standards as the evaluative criteria is in itself a major contribution of this study.

7 The IJA/ABA Standards, a total of 22 volumes, were prepared in draft form in 1977; 17 volumes were submitted to and approved by the ABA in February of 1979.

8 The six organizations are: National Council on Crime and Delinquency; National Advisory Committee on Juvenile Justice and Delinquency Prevention; The President's Commission on Law Enforcement and Administration of Justice Task Force; National Advisory Commission on Criminal Justice Standards and Goals; National Advisory Committee on Criminal Justice Standards and Goals; and Commission on Accreditation for Corrections.

Site Monitoring Procedures

The actual monitoring was done by SYA monitoring teams composed of four to six people who visited each of the seven secure detention facilities in the state. These teams included two SYA staff members, SYA VISTA volunteers, and ordinarily at least one person from the local community. In addition, the monitoring team was accompanied by a DFY detention staff member.

The length of the visits ranged from one to three days, depending upon the size of the facility. At each site visit, the monitors divided into teams of at least two members and interviewed various staff associated with the different topic areas, as well as individual youth at the facility.

Description of Data

A major section of the complete report presents the results of an analysis of 1978 and 1979 secure detention statistics in New York State. The data were obtained primarily from the Division for Youth, as well as from the Office of Court Administration statistics and detention facility reports.⁹ The Local Assistance Planning Unit of DFY Detention Services Department¹⁰ provided information through the Detention Information Management System (DIMS) a computerized system designed to provide comprehensive data on detention practices throughout the state. This system was initiated in January of 1978 and became fully operational statewide the following year.

The Research Unit of DFY compiles its reports from the raw data obtained from each detention center. The information on each admission is entered on a DFY Form 203 Detention Admission and Release Notice. The following list of variables are the ones selected from this form for use in the study: Sex, Authority for Admission, Region, Age, Length of Stay, Petition Type, Seriousness of Charge, and Release Type.

In order that the findings would present a current picture and provide a chronological range, the monitoring project selected to review 1978 and 1979, the first years to be covered in the new information system. However, problems associated with data from these two years made it difficult to get a completely accurate picture of admissions for this period:

1. New York City reporting was not part of the DFY Information System for 1978 and, therefore, there are some categories for Spofford that are incomplete, making certain regional comparisons impossible.

2. In September, 1978, the offense category of Juvenile Offender (JO) was created by the New York State Legislature and, therefore, the JO totals for that year represent only the last four months of 1978.

3. The gradual removal of PINS from secure detention took place in 1978 and 1979. (The Federal Juvenile Justice and Delinquency Prevention Act of 1974 mandated that the states remove status offenders from secure detention as a condition for receiving federal funds. By the end of 1979, New York State was in compliance with that requirement.)

These were not the only problems associated with the preparation of an accurate analysis of the detention data. Detention record-keeping¹¹ and categories of entries varied from different sources and were not interchangeable (for example, there was no correlation between Office of Court Administration data and that of DFY due to different category definitions). The Office of Court Administration data for 1978 were still not available in published form by May of 1980.

All of this points to a more fundamental problem—the lack of a comprehensive and standardized state data and record-keeping system in the area of juvenile justice, one

9. The 1979 figures reported in this study are based on preliminary computer runs from DFY and releases from the Office of Court Administration; they are not to be considered official reports.

10. The cooperation and assistance of the staff in the Detention Services Department at DFY has been both exceptional and invaluable. Without their aid, the study would have been far more difficult. For instance, computer runs specifically designed and requested by SYA staff were readily provided by DFY personnel.

11. For example, the flow of admissions from secure to non-secure, and vice versa, makes it complicated to get accurate totals.

which could integrate information from the court, police, and detention facilities into a uniform report. The absence of such an integrated information system which interrelates data from these institutions seriously complicates and inhibits research, planning, and advocacy efforts.

Footnote System and Bibliography

SYA's complete report follows the footnote system utilized by the American Psychological Association. For the purposes of this summary, we list below the complete citations for the references most frequently used. Other references are given their complete citation in the footnotes.

Abbreviated Citation

Source

(DFY-AR, 1978: page)

New York State Division for Youth Detention Services. **1978 Annual Report**, (Albany, NY: NYSDFY, 1979)

(DFY-DSARS, year: page or table)

DSARS refers to DFY's Detention Services Admissions Record Section. The years and pages refer to unpublished computer printouts for 1979.

(DFY-P&P, 1977: page)

New York State Division for Youth. **Juvenile Detention in New York State, 1977 Policy and Practice, Detention Study Unit Report**, (Albany, NY: NYSDFY, 1977)

(NIJJDP-FY, 1979: page)

National Institute for Juvenile Justice and Delinquency Prevention, Office of Juvenile Justice and Delinquency Prevention, Law Enforcement Assistance Administration. **Annual Report of NIJJDP Fiscal Year 1979**, (Washington: GPO, 1980.)

(ABA-IS, standard: page)

Institute of Judicial Administration. **American Bar Association Juvenile Justice Standards, Interim Status: The Release, Control and Detention of Accused Juvenile Offenders Between Arrest and Disposition**, (Ballinger Publishing Company, Cambridge, MA: 1980)

For additional information, readers may consult the extensive bibliography included in the complete report.

Chapter Two: Description of New York State's Detention System

Definition - Detention is the legally-authorized temporary holding of children under age sixteen pending court-related adjudication, disposition, or placement. In New York State, there are several sources for the legal definition of detention.

Article Seven (Section 712) of the Family Court Act defines "detention" as:

Temporary care and maintenance away from their own homes of children held for or at the direction of the family court pending adjudication of alleged juvenile delinquency or need for supervision by such court or pending transfer to institutions or facilities to which placed by such court or while awaiting disposition by such court after adjudication. . .

According to Section 372 of the **Social Service Law** and Section 510a of the **Executive Law**, detention is:

The temporary care and maintenance away from their own home of children held pursuant to Article Seven of the Family Court Act, or held pending a hearing for alleged violation of the conditions of release from a school or center of the Division for Youth, or held pending return to jurisdiction other than the one in which a child is held.

Who Can Be Detained? - As indicated by the family court statute, the two types of accused youth who come before the family court and who could be considered for detention on the basis of a petition drawn up against them, are:

1. An alleged juvenile delinquent: A person at least seven years of age and less than sixteen years of age who commits an act that, if done by an adult, would constitute a crime.¹²

2. An alleged PINS: Person in Need of Supervision (status offender); a person less than 16 years of age who does not attend school, is incorrigible, habitually disobedient, and beyond the lawful control of parent or guardian or other lawful authority. These acts (status offenses) if committed by an adult would not constitute a crime.

Another designation for an accused youth, in effect since September 1, 1978, is that of a "juvenile offender." Basically, a juvenile offender is a youth age 13 to 15 accused of a serious violent offense (such as second degree murder, or first degree assault, rape, robbery, etc.) who is removed from the jurisdiction of the family court and is treated as an accused adult. Therefore, the youth stands trial in criminal court and is eligible for bail. If unable to meet bail, he is put in detention.

Types of Facilities: Secure and Non-Secure - Juvenile detention facilities are of two types: secure and non-secure. Non-secure detention is defined as the temporary care of children held for the family court in a "facility characterized by the absence of physically restricting construction, or hardware and procedures." The use of non-secure detention was minimal five years ago, but has steadily increased. This increase is due primarily to New York State compliance with the Juvenile Justice Delinquency Prevention Act. Juvenile delinquents, however, may be placed in either secure or non-secure facilities.

State Secure Detention Facilities - There are seven secure facilities in New York State, each with a specific certified maximum bedspace capacity:

12. There is no system of bail for youth involved with the family court.

	Certified Capacity
Spofford Juvenile Detention Center * 13	212
Erie County Detention Facility *	28
Monroe County Children's Center *	45
Hillbrook Detention Facility *	32
Woodfield Detention Cottage	16
Nassau County Children's Shelter *	48
Highland Regional Secure Detention Facility	14

Highland is run directly by the Division for Youth; the others are DFY-authorized and county-run. DFY certifies these county facilities, provides 50% of their operating funds, and supervises their operations. All facilities operate in accordance with DFY regulations.

Criteria for Detention - The purpose of juvenile detention, and its only valid use according to the New York State Family Court Act (Section 739), is to hold alleged juvenile delinquents and PINS in the following two instances:¹⁴

1. When there is a substantial probability that they will not appear in court on the return date; or

2. When there is a serious risk that they may, before the return date, commit an act which if committed by an adult would constitute a crime.

Procedures for Placing a Youth in Secure Detention - The court has the ultimate responsibility for placing a youth in secure detention, through a court remand. However, there are several points of discretionary decision-making on the part of police and detention intake officials which influence the outcome. In the process of apprehending an alleged juvenile delinquent, a police officer must determine whether to release or to hold a youth after arrest. An officer can take a youth into custody with a warrant (or without one, if there is probable cause) prior to the filing of a petition. The law requires that the officer must make every reasonable attempt to notify the parents or guardians of the action being taken. Then the officer has several possible options. If eligible, the youth can be allowed to go home with parents/guardians on the basis of a written promise to appear in court on a set date (the preferred option in the statute). Or the officer may choose to bring the youth directly to family court where the youth may be remanded to detention by a judge. If the court is not in session (evenings, weekends, holidays), the officer may decide to bring the youth directly to a secure detention facility. The detention center may accept a youth without a court remand until the next court date.¹⁵ However, if the youth is to be held at the facility, a petition must be presented during the next court session and a secure detention remand issued. This remand is reviewed by the court every 10 days.

These are the procedures. In practice, however, the issues are not nearly so clear-cut. The criteria for detention are open to a variety of interpretations and are currently under legal challenge. Recent case law combines with sociological assessments of the effect of detention to indicate the need for extremely tight restrictions on its use. The limitations of this summary report allow for only the briefest of introductions to some of the philosophical issues related to detention.

In New York, both the Family Court Act criteria for detention admission and DFY regulations are vague and do not offer precise guidelines. The statute's phrase "substantial probability" is open to a wide range of interpretations (DFY-P&P, 1977:6). The juvenile justice standards offer a more concrete basis on which to judge; they call for a history of runaway behavior or a recent record of willful failure to appear at juvenile proceedings (ABA, Section 6.6) as evidence of "substantial probability."

13. Facilities marked with an asterisk are co-ed.

14. It is important to note here that alleged juvenile offenders are considered separately and are not subject to these criteria. If they do not post bail, they must be placed in detention. While the Juvenile Offender Law does not actually specify secure detention, in practice detained JOs are almost always being kept in secure facilities.

15. Not to exceed three days.

The same vagueness is associated with interpretation of the second point, the "serious risk" of committing a crime. Is it the "seriousness" of the alleged crime, or even the past record or the apparent "attitude" of the youth involved? (DFY-P&P, 1977:7) According to several studies, there seems to be no single factor or combination of factors which accurately predict what might constitute a "serious risk." This is one of the major arguments in a recent case initiated by the American Civil Liberties Union and the N.Y. City Legal Aid Society challenging the constitutionality of preventive detention for juveniles in New York State.

The Family Court judge is given total discretion to determine whether the child before him/her poses a serious risk of criminal behavior. No standards or guidelines for this determination are established, no clinical testing or expertise is mandated, no review is provided for, and the decision must be made in an extremely short time on the basis of a record ill-suited to the task...

In essence, juveniles are subject to loss of liberty based on what is no more than an amalgam of unarticulated, subjective factors. It is, ultimately, the whim of the Family Court judge unguided, untested and incapable of scientific or legal review. Such arbitrary state power impacting on fundamental liberties cannot survive constitutional challenge.

(U.S. ex rel. **Martin, et al.**, vs. **Strasburg**, 77 Civ 6176 (R.I.C.) Petitioners Post Trial Memorandum: 71-72)

This challenge to current practice is still before the court. Meanwhile, the criteria discussed above (risk of non-appearance in court or commission of a crime) continue to be legal grounds, and the only legal grounds, for detaining juveniles. Detention is not to be used for youths who are runaways, (unless already under court jurisdiction) or who are in need of shelter, supervision, counseling, or preventative therapy.¹⁶ A detention admission is therefore inappropriate not only if it is illegal but also if it is unnecessary. While the latter is the least specific, it describes the majority of inappropriate detentions.

Least Restrictive Principle¹⁷ - In accordance with the juvenile justice standards, the category of youth unnecessarily admitted to secure detention includes all those for whom a less restrictive form of restraint would suffice. The Juvenile Justice and Delinquency Prevention Act calls for use of the "least restrictive means" possible, consistent with public safety, for the detention and disposition of juveniles. Recent case law also clearly affirms the importance of that principle:

It is manifestly obvious that conditions of incarceration of detainees must, cumulatively, add up to the least restrictive means achieving the purpose requiring and justifying deprivation of liberty. (Hamilton v. Love, 328 F. Supp. 1182 [E.D. Ark., 1971])

However, secure detention statistics in New York State are evidence of the failure to comply with this principle. In 1979, less than 10% of securely-detained youth were given secure placement upon adjudication; over two-thirds of all detention admissions were detained in secure facilities.

Contrary to public perception, most juvenile delinquents are not accused of crimes against persons, but of property crimes. In many cases, these youths need not—in fact, according to the criteria described previously, should not—be kept in secure confinement.

16. See JJMP/SYA Intake Questionnaire, questions 36-50, for examples of possible reasons for use of detention.

17. A requirement for the 'least restrictive alternative' has been imposed on the adult criminal justice system by several courts. See **Hamilton v. Love**, 328 F Supp. 1182, 1192 [E.D. Ark. 1971]; Note, *Administration of Pretrial Release and Detention: A Proposal for Unification*, 83 Yale L.J. 153, 169-71 [1973]. In light of Supreme Court decisions in recent years that have introduced rigorous standards of due process to many aspects of juvenile justice, e.g., **Kent v. U.S.** 383 U.S. 541 [1966]; **In re Gault**, 387 U.S. 1 [1967]; **In re Winship**, 397 U.S. 358 [1970], it seems inevitable that a least intrusive alternative standard will also be extended to juveniles. The National Advisory Commission on Criminal Justice Standards and Goals, 'Courts' 297 [1973], recommends that prehearing placement involve the least infringement on the juvenile's liberty. (ABA Interim Status, pp. 56-57)

The consensus of the juvenile justice national standards developed within the last seven years is that:

Detention should be considered as a last resort where no other reasonable alternative is available. (NAC 16.9)

Effects of Detention - The arguments against unnecessary use of detention rest not only on the legal objections to preventive detention and the unnecessary denial of liberty but also on the negative effects, on the individual, of the experience of incarceration. The DFY study, *Juvenile Detention in New York State: 1977 Policy and Practice*,¹⁸ contains a useful discussion on this point.

The most subtle but perhaps the most harmful effect of secure detention is the creation of, and the impression left by, a high-security atmosphere which is concerned about possible breaking out and physical attacks against staff. The statement that the juvenile is capable of breaking out or of physical attack is communicated non-verbally to him. The atmosphere of watchfulness and anticipation creates the potential of a shift in the juvenile's self-image and can become a self-fulfilling prophesy. If a child is made to feel like a prisoner, he may begin to act like a prisoner. No matter how humane authorities attempt to make secure institutions, this danger, by the very definition of this facility, will remain.⁴⁹

... O'Connor has reported that the more security-oriented the detention facility, the more alienated the youth become from rehabilitative goals.⁵⁴ Detention has been characterized as a 'waiting period of enforced idleness'⁵⁵ which separates the child from the ties of the community and thus contradicts the ideal of community reintegration.

In view of both the philosophical and practical arguments against detention, it is the premise of this report that, in general, the danger of unnecessary detention is greater than the risk of inappropriate release.

18. (DFY-P&P, 1977:11-12); footnotes are directly from this article.

49. Komisaruk, Richard, "Psychiatric Issues in the Incarceration of Juveniles," *Juvenile Court Journal*, XXI:4 (Winter 1971), pp. 117-120.

54. O'Connor, Gerald, "The Impact of Initial Detention Upon Male Delinquents," *Social Problems Journal* 18:2, pp. 194-199.

55. Saleebey, *supra* note 6, p. 63.

SECTION TWO

This section presents the major finds of both the data analysis and study of the intake decision-making process. SYA's recommendations designed to reduce inappropriate admissions and shorten detention stays conclude this section.

Chapter Three: Analysis of Admissions Data

- **ALTHOUGH SECURE DETENTION ADMISSION TOTALS HAVE DECLINED DURING THE PAST FIVE YEARS, THE NOTABLE INCREASE IN NON-SECURE TOTALS INDICATES MORE OF CHANGE IN USAGE PATTERNS THAN A SIGNIFICANT DECLINE IN OVERALL DETENTION ADMISSIONS.**

TABLE I

Secure Admissions	1975	1976	Change '75 - '76	1977	Change '76 - '77	1978	Change '77 - '78	1979	Change '75 - '79
Statewide Totals	11,867	11,333	-4.5%	10,745	-5.2%	9,911	-7.8%	8,551	-30.0%

Table constructed from: (DFY-AR, 1978:14, Table A-1) and (DSARS, 1980A:7)

Since 1978, there has been a nearly 30% reduction in secure detention admissions¹⁹ in New York State. Much of this is attributable to the removal of PINS youth from secure detention. An accurate assessment of the decrease in the use of secure detention must, therefore, include a consideration of non-secure totals.

TABLE 2

	1975	1979	Change	% Change
Secure Admissions	11,867	8,551	- 3,316	- 30
Non-Secure Admissions	1,600	4,189	+ 2,589	+ 160
Total	13,467	12,740	- 727	- 5

Table constructed from: (DFY-P&P, 1977:60) & (DFY, DSARS, 1980A)

It is estimated that in 1975 there were 1,600 admissions to non-secure detention;²⁰ by 1979, this figure had risen to 4,189 admissions. In 1975, only 12% of the total number of

19. Note that throughout the report, the DFY data refers to admissions, not individual youth—the two are not synonymous. There is a re-admission rate of approximately 44%. According to SYA's calculations, which account for a variety of factors, it can be estimated that about 70% of the admissions totals represent individual youth. (See complete report, data analysis section.)

20. Because substantial use of non-secure is relatively new and reporting practices have only recently been standardized, complete figures for non-secure were not available until 1979.

detention admissions were to non-secure facilities, whereas in 1979, one-third of the admissions were to non-secure facilities. This change was made possible by the dramatic increase in the availability of non-secure detention space. For example, in 1977, there were 280 certified non-secure beds; in 1979, there were 470 beds (DFY-AR, 1978:5).

The combined totals for the years 1975 and 1979 show a decrease of about 727 admissions to detention, representing only a 5% decrease in the use of the detention system in general. Thus, the 30% decrease in the use of secure detention is largely compensated for by the increased use of non-secure facilities. While the use of non-secure is clearly an important reform, it must not be allowed to disguise the fact that large numbers of youth are still being brought into the detention system.

**TABLE 3: JD PETITIONS DISPOSED
IN NYS FAMILY COURT - 1978**

Total JD Petitions Disposed Statewide	Total Detained
19,741	34.7% (6,850)

Table constructed from: (OCA, 1978).

A comparison of the state's detention rate²¹ with the maximum acceptable detention rate established by the National Council on Crime and Delinquency is relevant here. The NCCD asserts that a state's detention total should not exceed 10% of the total of disposed juvenile delinquent petitions. In 1978,²² New York State's detention rate was 34.7%.²³

The rate of detention, as well as three other important indicators, give substantial evidence of New York State's unnecessary use of detention: seriousness of the charge for which a youth is detained, the length of stay, and the pattern of release for youth admitted to detention.

**• SERIOUSNESS OF CHARGE: THE MAJORITY OF NEW YORK STATE SECURE
DETENTION ADMISSIONS ARE NOT CHARGED WITH SERIOUS OFFENSES.**

TABLE 4: SERIOUSNESS OF CHARGE BY REGION²⁴-1979

	1979 NYC			1979 Upstate			1979 Total		
	%			%			%		
Charge	No.	Row	Col	No.	Row	Col	No.	Row	Col
A	81	85%	2%	14	15%	.4%	95	100%	1%
B	810	85%	16%	139	15%	.4%	948	100%	11%
C	733	78%	14%	201	22%	6%	934	100%	11%

(Table 21, SYA complete report; DFY-DSARS, 1979)

21. The detention rate is the percent of disposed delinquent petitions which involved detention.

22. Figures were available for 1978 only, because of a delay in release of the 1979 Office of Court Administration reports.

23. Detention rates for upstate and New York City differ significantly; the subject is discussed in the complete report.

24. The data is classified into two categories by region: New York City (the 5 boroughs) and Upstate (Which includes everywhere outside New York City).

In 1979, 12% of the admissions were charged with Class A and B felonies²⁵—the most serious charges. If the serious charge category is expanded to include C felonies, it still accounts for only 23% of the total admissions (7% of upstate and 32% of New York City admissions). Thus, less than 25% of the secure detention admissions in 1979 were charged with serious offenses.

Proportionally, upstate detains more youth on less serious charges than does New York City (see Table 21, SYA complete report). In 1979, for example, 62% of the misdemeanor admissions came from upstate. The combination of misdemeanor, runaway, and PINS charges accounted for over 40% of the total upstate admissions. When this is added to the 28% of admissions for which charges are not known,²⁶ the upstate total admitted on non-serious charges appear to reach almost 70%. Even in New York City, which accounts for 85% of the state admissions on A and B felony charges, only one-third of the admissions were charged with serious crimes.²⁷

• LENGTH OF STAY: FIFTY PERCENT OF THE TOTAL ADMISSIONS TO SECURE DETENTION ARE RELEASED IN THREE DAYS OR LESS.

TABLE 5: LENGTH OF STAY: STATEWIDE - 1978 & 1979

	1 Day	1 - 3 Days	Less Than One Week	Total
1978*	27%	40%	52%	4,031
1979	33%	51%	64%	8,450

* 1978 table excludes Spofford.

Table constructed from: (DFY-AR, 1978: Table 24)
and (DFY-DSARS, 1980)

In 1979,²⁸ a third of the total admissions were released in one day; half of all admissions were released in three days or less. Nearly two-thirds of the admissions total were released in under a week. This high number of early releases certainly calls into question the necessity for many of the admissions.

• RELEASE TYPE: OF THE TOTAL ADMISSIONS TO SECURE DETENTION IN 1979, OVER 45% WENT HOME AND LESS THAN 9% RECEIVED SECURE PLACEMENT WITH DFY.

25. In the case of homicide, classes of felonies include: murder 2nd degree (Class A), i.e. an intentional killing committed in the absence of mitigating factors; manslaughter 1st degree (Class B), i.e. an intentional killing done in the heat of passion; manslaughter 2nd degree (Class C) i.e., recklessly causing the death of another person. In the case of burglary, classes of felonies include: burglary 1st degree (Class B) i.e., breaking and entering into a dwelling at night with the intent to commit a crime therein and armed with a deadly weapon; burglary 2nd degree (Class C) i.e., breaking and entering into a dwelling at night with the intent to commit a crime therein.

26. A significant number of 1978 and 1979 admissions had unknown charges, with over one-quarter of the total 1979 admissions (27%) in this category. It is probably that these admissions with unknown charges represent youth brought to the detention facility overnight without a petition and released by the court the next day. It seems safe to conclude that these youth were not involved with serious charges: it is likely that if the alleged offenses had been serious, they would have been known.

27. While these statistics include PINS totals (which will not be the case from 1980 on), they are still representative since PINS admissions accounted for only 11% of the state total in 1979.

28. Statistics for 1979 only are discussed here since the 1978 data is incomplete due to lack of figures from Spofford.

TABLE 6: RELEASE TYPE - STATEWIDE

	Home	DSS	DFY	Other	Total
1978*	47%	9%	10%	17%	4,031
1979	45%	9%	9%	14%	8,450

* 1978 table excludes Spofford.

Table constructed from: (DFY-AR, 1978: Table 31 and DFY-DSARS 1980)

There is a startling inconsistency between the number of admissions to secure detention and the number later assigned to secure placement. While there is little doubt that many detained youth (and their families) need the support of community services or crisis-intervention help, it is unlikely that that help or those services are best given under the aegis of secure detention. Were access to secure centers stringently limited, communities would then be forced to deal more concretely with the need for alternative services.

The second major finding of the statistical analysis, and one confirmed by detention personnel throughout the state, is that:

• EXCESSIVE LENGTH OF STAY IS THE CRITICAL PROBLEM IN DETENTION FACILITIES.

Average length of stay figures must not be allowed to hide the existence of the problem. In 1978, the statewide average for length of stay in secure detention was 13.6 days; in 1979, that average was 12.2 days. These statistics are heavily influenced by the high percentage of those who are released in three days or less. However, rapidly escalating numbers of detained youth remain for longer than the technical 45-day maximum. Today, this problem is the major concern of detention administrators throughout the state.²⁹

180.6 Length of stay. [DFY Detention Regulations]

[a] No youth shall be kept in continuous detention care beyond 45 days from admission; except that such youth may remain beyond 45 days pursuant to court order or where the detention facility has obtained prior written approval by the Division.

The only state safeguard against excessive length of stay is this DFY regulation requiring that special permission be requested from the Division in cases where it is necessary to keep a youth beyond 45 days. (SYA considers that even this minimum is too long.) It is our understanding that because of the difficulties in arranging for placement, even that minimal procedure is no longer in effect.

Some of the problem comes from delays in adjudication or disposition; this is more of an upstate issue. The biggest problem, however, is the steadily accelerating growth in the backlog of youth (post-adjudicated) awaiting placement with the Division for Youth. the problem is particularly acute for juvenile offenders who spend inordinate periods of time in detention—stays of six months and up to a year or more are not unusual. We have verified instances of JO youth who have acutally completed their sentences in detention. The high numbers of sentenced, DFY-ready juvenile offenders are especially serious at Spofford. Facility spokesmen consider the situation critical and have spoken to us of their need for

29. As confirmed by continued contacts with detention staff and statements from the state's Detention Administrators Association.

immediate relief.³⁰ The situation at Spofford is backing up the whole state secure system; DFY-ready JO's from New York City are now being sent to upstate facilities as far away as Rochester and Buffalo.

The net effect of excessive detention stays for DFY-ready juvenile offenders is one of considerable injustice:

1. They are denied access to rehabilitative programs; and
2. The time spend awaiting placement is lost or "dead" time. (That is, detention time is not counted toward the minimum sentence but toward the maximum: if a youth is given a two-to-five-year sentence, detention does not count towards the initial two years.)

Both the lengthy procedures of the criminal court process itself and the shortage of placement options hold JOs in detention for these excessive periods of time. This shortage results primarily from the legislative requirement that JOs be kept in secure settings for the entire term of their sentence. That requirement is straining those facilities beyond their limits; they must continue to hold youth who no longer need secure control but who may not be transferred to less restrictive settings.

The problem of excessively long detention stays is not limited to juvenile offenders. Backlogs of post-adjudicated juvenile delinquents result not only from secure placement problems but also from extensive budget cuts which forced the closing of some DFY programs and the restricted operation of others. This curtailment of community-based program options has required the Division to rely on away-from-home placements for youth who might otherwise have been served in their own communities. These increased placement problems for juvenile delinquents are compounded by the unwillingness of private facilities to accept hard-to-handle youth.

Excessively-long detention stays also present serious programming problems. Interviewed staff all voiced their distress over the current situation. The 1978 DFY Report, too, called attention to the issue, and the problems it created:

... Long-term utilization of a bedspace is the obvious problem. The more subtle problem revolves around the programming provided by a secure detention facility. Educational, recreational, and counseling programs provided by secure detention facilities are usually organized into two-week cycles—in recognition of the average length of stay of the juveniles in care. Juvenile offenders in care for longer periods of time create a special problem because special programming has to be done to meet the needs of these juveniles. In addition to these programming problems, it is generally recognized [by detention administrators] that the risk of behavioral problems escalates dramatically after a juvenile has spent three to four weeks in a facility. Because of these two issues, the juvenile offenders who do spend longer periods of time in care create problems for a detention facility that are disproportionate to the number of cases involved.

DFY-AR, 1978:9

SYA opposes any attempt to solve this problem by building secure facilities. The problem can be solved in a far more constructive fashion. First, the Juvenile Offender Law should be repealed.³¹ Until this is accomplished, the current overcrowding could be corrected by giving DFY greater flexibility to move youth within their system and by increasing the funding for community-based programs so as to reduce the number of placements necessary.

30. As this summary report was going to press, a special appeal from Mayor Koch to Governor Carey was quoted in the *New York Times*: "The over-crowding, the Mayor said, has turned 'from a problem to an emergency.'" The City Commissioner on Juvenile Justice called Spofford a "tinderbox." *New York Times*: November 14, 1980; B3. For further discussion of Spofford see recommendation #46.

31. The irony of implementation is that this law, which was designed to remove allegedly violent juveniles from the street, allows those same youth to be released on bail. In fact, over 70% of youth charged as JOs were released in five days or less (DFY-DSARS, 1980A:10) (1980 Juvenile Offender Report prepared by the Department of Criminal Justice Services).

The analysis of admissions data points not only to excessive use of detention, but also to anomalies in the pattern of admissions and releases.

- **MINORITY ADMISSIONS ACCOUNTED FOR OVER 70% OF THE SECURE DETENTION TOTAL. IN NEW YORK CITY, THE MINORITY ADMISSIONS WERE NEARLY 90% OF THE CITY'S DETENTION TOTAL.**

TABLE 7: ETHNICITY TOTALS FOR STATEWIDE DETENTION - 1978 & 1979

	White	Black	Hispanic	Other	Minority Total	State Total
1978	28%	52%	18%	2%	72%	100% (9794)
1979	27%	54%	18%	1%	71%	100% (8551)

Table constructed from: (DFY-AR, 1979: Table 4) and (DFY-DSARS, 1980B:9)

For the two-year period, blacks averaged about 53% of the state admissions total and Hispanics 18%. A comparison by region shows that minority admissions comprised nearly 90% of New York City's total and 45% of upstate's total³² (Table 15, SYA complete report).

Figures such as these raise the question of racism (or sexism as in the case of next finding on females in detention). To validate allegations that the use of secure detention is racially discriminatory, it would be useful to compare ethnic totals of juveniles who come before family court on delinquency petitions with the ethnic statistics for youths actually placed in detention.³³ The limitations of this report and the difficulty in gathering such court statistics on a statewide basis prevented SYA's undertaking of this analysis; however, the need for further study is clear. It is imperative that, as part of the ongoing monitoring process recommended later, these issues be consistently reviewed.

- **UPSTATE DETAINS A SIGNIFICANTLY HIGHER PERCENTAGE OF FEMALES THAN DOES NEW YORK CITY.**

TABLE 8: SEX DISTRIBUTION - 1978 & 1979

1978				1979			
Count	Upstate	NYC	State Totals	Count	Upstate	NYC	State Totals
Row Col				Row Col			
Male	2657 35% 71%	4953 65% 82%	7610 78%	Male	2538 37% 75%	4396 63% 85%	6934 81%
Female	1053 49% 28%	1090 51% 18%	2143 22%	Female	851 54% 25%	739 46% 15%	1590 19%
Total	3751 38%	6043 62%	9794* 100%	Total	3384 40%	5140 60%	8524* 100%

*Note: 41 Unknowns

*Note: 28 unknowns

Table constructed from:
(DFY-AR, 1978: Tables 15A-C)

Table constructed from:
(DFY-DSARS, 1980 B:7)

32. The complete report gives evidence of disproportionate minority admissions in individual upstate facilities.

33. See also "Petitioner's Post-trial Memorandum, U.S. X rel Martin vs. Strasburg," 77CIV. 6176 (F.D.N.Y.), pp. 51-55, for discussion of recent data in New York City which suggests that of the youths petitioned as delinquents, black and Hispanic youths are twice as likely to be petitioned as white youths.

In 1979, females accounted for 25% of the upstate admissions total, and only 15% of New York City's total. Also in that year, the upstate region provided about 54% of the total female admissions and only 37% of the male admissions to secure detention. The reasons for the regional differences are not clear. Is it that upstate overdetains or does New York City fail to appropriately detain females? If upstate does overdetain females, is this related to a higher number of runaways, a lack of shelter care resources, or perhaps a "too protective" (or "too punitive") attitude of upstate police and judges?

• APPROXIMATELY 60% OF THE STATE'S TOTAL ADMISSIONS TO SECURE DETENTION WERE ADMITTED BY POLICE AUTHORITY.³⁴

TABLE 9: DETENTION TOTALS BY ADMITTING AUTHORITY - 1978 & 1979

	State Total	Court Admissions	Police Admissions	Other/ Unknown
1978	9794	37%	58%	7%
1979	8551	33%	61%	7%

Table constructed from: (DFY-AR 1978: Table 23) and
(DFY-DSARS, 1980B)

The percentage of police authorized admissions becomes a matter of particular concern when it is considered in the context of length of stay. For example, in 1979, of the total released from secure detention in one day, 80% were brought in under police authority (and only 13% under court remand); of those released in three days or less, 55% were admitted by police.³⁵ DFY's detention report (DFY-AR 1978:7) notes that two-thirds of police admissions were released in seven days and over 50% of those youth went directly home, suggesting that many of these juveniles had not needed secure detention.

It must be recognized, however, that police are forced by circumstances to make very difficult decisions, often without adequate resources or alternatives at their disposal. If the community is serious about reducing inappropriate detention admissions, not only must it carefully limit police authority but it must also begin to provide more alternative forms of temporary shelter care for youth.

34. The term "police admitting authority," a category used by DFY Information System, refers to non-court admissions. The authority to admit during non-court hours, however, rests with the facility, not the police officer.

35. See SYA complete report, Table 19.

Chapter Four: Intake Interview Data

The intake decision-making process is a complex one which can be influenced by a number of factors: the legal criteria for admission to secure detention; the role of police, parents, court, probation and detention personnel, and law guardians; and the attitudes and actions of the youth involved. It is our belief that many inappropriate admissions occur not through the fault of any single component but through an interaction of the above factors.

It is the conclusion of this study that the following are the major contributors to the occurrence of unnecessary detention:

1. New York State legal criteria governing intake decision and procedures are too broad and too vague.³⁶ State statutes and regulations do not clearly establish that detention is the option of last resort.

2. Judges and police both rely unnecessarily on detention. (Attitudes which are either too punitive or too protective and limited knowledge of alternatives are factors. For police, unclear state guidelines and inadequate training in juvenile law also contribute to undue reliance on secure centers. Probation intake investigations are also a key factor.)

3. The current system for legal representation of juveniles is neither uniform nor adequate; it often fails to provide thorough and aggressive legal representation for youth.

4. There is no uniform requirement for training (based on clear-cut standards) of detention intake personnel.

5. There is a lack of available alternatives to detention, particularly ones which can be used during the late evening hours and on weekends.

6. There is inadequate review of the detention remand and no formal way for detention personnel to initially influence or then to change the judge's decision.

The above conclusions are based not only on the analysis of data, but also on information gained during the monitoring interviews conducted at the individual facilities. During those interviews, questions about inappropriate admissions were directed to the staff responsible for intake and to some childcare counselors, caseworkers, and administrators. Staff responses to the following questions provide a summary of their perceptions of the causes of unnecessary detention.

Question: *Do you think the detention facility does end up keeping youth who could safely be placed in non-secure detention or another program?*

Out of approximately 20 staff interviews on this point, all who answered indicated a "yes" of some kind. Overutilization of detention by the courts was the most frequently cited reason. Respondents also offered explanations such as: problems within the families, agencies being closed at night, police over-reliance on detention in unclear³⁷ cases, the lack of available non-secure bed space, ineffectiveness of law guardians, and the fact that a detention admission could meet state criteria and still be inappropriate. In addition, staff members commented that there is no systematic way for detention personnel to influence the court's decision to remand to secure detention.³⁸ Furthermore, they noted that even when secure detention is initially appropriate, it often becomes unnecessary after a youth

36. See discussion of court challenge (Chapter Two).

37. Hillbrook (Syracuse) requires that police phone before bringing youth to the center; detention staff reported that this procedure provides an opportunity for screening.

38. Four facilities (Monroe, Erie, Hillbrook, and Spofford) have limited authority to place a youth in non-secure detention in cases where the court has not specified secure; this is not routine practice, however, except for Spofford. In New York City, Spofford assessment teams are located in the family court rooms. There, using specific criteria (currently under revision), Spofford intake staff determine the form of detention to be used for those youth not specifically remanded to Spofford. This procedure certainly appears to be preferable. Some legal questions have been raised about it, which could be resolved by implementation of SYA's Recommendation 9.

has settled down. (The ten-day court review of detention did not appear to them to be an effective means of dealing with such situations.) Thus, the staff interviewed charged the court with the primary responsibility for inappropriate detention admissions.

However, well over 50% of the admissions to secure detention occur after family court hours (i.e., after 4 p.m. on weekdays and on weekends and holidays), through a process that is less clear and less formal than the court procedure. In the facilities, designated staff do provide 24-hour coverage of the intake responsibility, and with several exceptions, those interviewed generally demonstrated a working knowledge of legal criteria and DFY regulations. Nonetheless, the decision-making process for intake is not standard and varies considerably among the facilities. In fact, the 1977 DFY detention study identified thirteen after-court-hours systems operating in the various counties (DFY JD P&P Summary, 1977:6).

The requirements for staff training and prior experience also vary. Problems can and do arise when a substitute or inexperienced staff member is assigned to night intake. Untrained staff are often more likely to acquiesce to police pressure for detention, whereas experienced intake officials are more likely to resist such pressures.

In conclusion, while it may be argued that final responsibility does rest with the court, it must also be remembered that in 1979, 80% of secure admissions released in one day were admitted on police authority (during non-court hours). This certainly suggests the need for tighter admissions criteria and careful training, as well as for more aggressive screening of non-court admissions by detention personnel and police, and more readily available night-time alternatives to detention.



Sally K. Davidson

The ages of youth in detention range from 10 to 16; about 17% are 13 or younger.

Intake Standards

SYA's complete study contains a representative summary of the standards used as criteria for reviewing the various components in the detention facilities; e.g., intake, education, health service, etc. In this condensed report, it was necessary to omit the full standards summary; however, key standards are included as background for the recommendations.

The fundamental guideline reiterated throughout the literature in the field is that detention should be used only as a last resort. Additional strictures which are important in relationship to New York State criteria are:

The offense alone should not be considered a reason for detention... (NCCD:24) and detention imposed to ensure court appearance must be based on a: ...demonstrated recent record of willful failure to appear at juvenile proceedings, on the basis of which the official finds that no measure short of detention can be imposed to reasonably ensure appearance... (ABA-IS 6.6)

Neither of these principles is included in state law.

To assure that detention is in fact imposed only as a last resort, the standards call for positive action, such as assertive outreach to parents and guardians. Reaching out beyond the parents to the extended family or to other responsible adults can often eliminate the necessity for detention (either initial or ongoing).

The court should be able to permit the child to remain with his parents, guardians or other custodians subject to such conditions and limitations as the court may prescribe. (NAC: 16.9)

A child should be released from detention if the family situation or other factors which necessitated his detention have changed in such a way as to justify his release. (NCCD:30)

Specific documentation is required in any decision to use detention rather than a less restrictive form of intervention.

...the intake official [or police] should first consider whether the juvenile qualifies for an available diversion program or whether any form of control short of detention is available to reasonably reduce the risk of flight or misconduct. If no such measure will suffice, the official should explicitly state in writing the reasons for rejecting each of the forms of release. (ABA-IS 6.6)

Given a valid decision to detain, there then must be a careful determination of the appropriate form of detention. The determination must be based on the principle of the least restrictive placement:

A detained juvenile should be placed in the least restrictive residential setting that will adequately serve the purpose of detention. (NAC-TFR, 12.7)

When an accused juvenile cannot be unconditionally released, conditional or supervised release that results in the least necessary interference with the liberty of the juvenile should be favored over more intrusive alternatives. (ABA-IS 3.4)

The latter standard indicates that secure detention is to be used only when every other option is found to be inadequate for preventing violent crime or for assuring the youth's presence in court.

Since the police must make certain assessments that set in motion a detention decision, the standards stress the importance of enabling them to make those decisions on the basis of clear and specific criteria. Recognizing that even careful regulations will not always protect the rights of an accused youth, the standards assert the importance of active legal representation:

...it should be the duty of the counsel for an accused juvenile to explore promptly the least restrictive form of release, the alternatives to detention and the opportunities for detention review at every stage of the proceedings where it would be relevant. (ABA-CPP, 8.2)

In New York State, there is provision for legal representation of accused youth. However, there is no requirement for the type of attentive advocacy demanded by the standards. Furthermore, monitoring depends on the initiative of DFY. Article 510(a)(7) of the Executive Law states:

*The Division for Youth shall be responsible for bringing violations of law pertaining to detention of juveniles to the attention of each appropriate law guardian or counsel for the defendant who may petition **habeas corpus** for persons aggrieved thereby.*

In summary, this brief review of admissions standards clearly shows that even though New York State law and regulations are not contrary to the guidelines, they certainly are not in accord with them. The problem is one of omission. For example, the least restrictive principle, with its obvious corollary of detention as a last resort, established by both standards and case law, is not directly embodied in state criteria and, therefore, is not routinely implemented in current state practice. New York State's legal and regulatory ambiguities—the state's failure to clearly specify what types of admissions are inappropriate and what types are prohibited (thus its failure to limit the arbitrary exercise of judicial authority), its failure to carefully define the roles of police and detention staff in terms of intake decision, and its failure to give clear directives for active legal advocacy on behalf of detained youth—are certainly basic causes for the high numbers of unnecessary detentions.



Sally K. Davidson

Typical bedroom in secure detention

SYA RECOMMENDATIONS

As part of the effort to bring New York State detention practice into consonance with juvenile justice standards and to eliminate needless incarcerations, SYA has developed recommendations related to the intake process and to detention procedures, program, and personnel. The first two recommendations presented are basic to ensuring implementation of the more specific recommendations which follow.

Monitoring

- 1. IT IS RECOMMENDED THAT A MONITORING MECHANISM BE ESTABLISHED BY THE DIVISION FOR YOUTH TO PROVIDE ONGOING REVIEW OF THE OPERATION OF BOTH SECURE AND NON-SECURE DETENTION SYSTEMS.**

This review shall be conducted in the context of both the juvenile justice standards and the recommendations set forth in SYA's report. In whatever form it is developed, the monitoring group should include representatives from the State Departments of Probation and Social Services, Division for Youth, local youth bureaus, independent advocacy groups, and the detention facilities. The monitoring should result in an annual report.

Regulations

- 2. IT IS RECOMMENDED THAT THE DIVISION FOR YOUTH SECURE DETENTION REGULATIONS BE REVISED TO INCORPORATE BOTH THE SALIENT NATIONAL JUVENILE JUSTICE STANDARDS INCLUDED IN SYA'S COMPOSITE SET OF STANDARDS AND THE RECOMMENDATIONS OF THIS REPORT.**

This revision should be prepared in cooperation with detention staff, family court judges, law guardians, police, legal aid societies, and advocacy groups.

Intake Criteria

- 3. IT IS RECOMMENDED THAT THE LEGISLATURE (BY SEPTEMBER 1981) ESTABLISH NEW CRITERIA FOR ADMISSION TO SECURE DETENTION IN NEW YORK STATE WHICH ARE MORE SPECIFIC AND RESTRICTIVE THAN THOSE CURRENTLY IN EFFECT.**

The criteria should be based on national standards published by such groups as: The American Bar Association, The American Correctional Association, and The National Council on Crime and Delinquency. The new criteria should then become the basis for standardized admissions directives with detailed regulations for their implementation to be included in the policy manuals of each of the secure detention facilities. Both stringent criteria and carefully drawn procedures will substantially reduce the number of unnecessary detention intake decisions.³⁹

It is further recommended that representatives of various agencies participate in the development of those criteria; e.g., representatives of the court, the local detention facilities, New York State Division for Youth, and outside advocacy groups.

- 4. IT IS RECOMMENDED THAT THE FOLLOWING CONDITIONS BE MINIMAL CRITERIA WHICH MUST BE MET BEFORE AN ALLEGED DELINQUENT CAN BE CONSIDERED ELIGIBLE FOR DETENTION:**

- A. THE CHARGE MUST INVOLVE A CRIME OF VIOLENCE⁴⁰ AND THERE MUST BE A HISTORY OF SUCH ACTS.**

39. That more restrictive criteria do result in noticeable reduction of admissions to secure detention is demonstrated in a study by Robert Kihm of the Community Research Forum, University of Illinois: "Prohibiting Secure Juvenile Detention: Assessing the Effectiveness of National Standards Detention Criteria." Kihm used intake criteria proposed by the National Advisory Committee on Standards for the Administration of Juvenile Justice (NAC), similar to those recommended above, to analyze samples of court cases from four counties in the country. These counties were balanced in terms of similar urban and rural populations, two of them generally conformed to the NAC criteria, and two did not. While the sample was limited, Kihm's data showed that the two counties using NAC criteria had significantly lower detention rates—detaining about half as many as the other two counties—and this without any higher rate of failure to appear in court. Kihm collected additional data from surveys in 187 counties representing ten states, and the results indicated that 55% of the juveniles in detention centers and jails would be ineligible according to NAC criteria. (See Appendix of complete report for copy of article discussing Kihm's report, as contained in the *Criminal Justice Newsletter*, 2/4/80.)

40. A felony charge which involves physical injury to a person.

Thus, there must be serious substantive cause to warrant the denial of liberty before a finding of guilt; e.g., a verifiable compelling state interest vis-a-vis community protection,⁴¹ or

B. THERE MUST BE A RECENT DEMONSTRABLE PATTERN OF FAILURE TO APPEAR IN COURT.

This is the only valid basis for a court determination that no measure short of detention can reasonably ensure appearance.

5. IT IS RECOMMENDED THAT THE CRITERIA FOR USE OF SECURE DETENTION BE BASED ON THE FOLLOWING ABA STANDARD.

The intake official should release the accused juvenile unless the juvenile:

1. is charged with a crime of violence which in the case of an adult would be punishable by a sentence of one year or more, and which if proven is likely to result in a commitment to a security institution, and one or more of the following factors is present:

a. the crime charged is one of first or second degree murder;

b. the juvenile is currently in an interim status under the jurisdiction of the court in a criminal case, so that detention by revocation of interim release, probation, or parole may be appropriate;

c. the juvenile is an escapee from an institution or other placement facility to which he or she was sentenced under a previous adjudication of status offender conduct;

d. the juvenile has a demonstrable recent record of willful failure to appear at juvenile proceedings, on the basis of which the official finds that no measure short of detention can be imposed to reasonably ensure appearance; or

2. has been verified to be a fugitive from another jurisdiction, an official of which has formally requested that the juvenile be placed in detention. [5.6 Interim Status] [SYA recommends a 48-hour time limit on such detention.]

6. IT IS RECOMMENDED THAT THE ONLY BASIS FOR DETAINING PINS IS THE DEMONSTRATED NEED TO ASSURE COURT APPEARANCE (NON-SECURE ONLY).

The juvenile must have a demonstrable recent record of willful failure to appear at juvenile proceedings, on the basis of which the official finds that no measure short of detention can be imposed to reasonably ensure appearance, or

The juvenile must be an escapee from an institution or other placement facility to which he or she was sentenced under a previous adjudication of status offender conduct. (ABA 6.6)

7. IT IS RECOMMENDED THAT THE NEW CRITERIA INCLUDE THE ABA STANDARD FOR MANDATORY RELEASE OF YOUTH CHARGED WITH MISDEMEANORS.⁴²

A. Mandatory release. Whenever the juvenile has been arrested for a crime which in the case of an adult would be punishable by a sentence of less than one year, the arresting officer should, if charges are to be presented, release the juvenile with a citation or to a parent, unless the juvenile is in need of emergency medical treatment [Standards 4.5 A.1.b.], requests protective custody [Standard 5.7], or is known to be in a fugitive status. [5.2 Interim Status]

Intake Policy

8. IT IS RECOMMENDED THAT IN CASES WHERE IT IS NECESSARY TO REMAND TO DETENTION, THE REASONS SHOULD BE DOCUMENTED BY THE JUDGE AS PART OF THE COURT RECORD. THAT EXPLANATION SHOULD INCLUDE SPECIFICS AS TO WHY ALTERNATIVES TO DETENTION WERE JUDGED INADEQUATE.

Notification of the reasons for detention should be forwarded to, and kept on record by, the receiving facility.

41. This position reflects the tension between the strictly civil libertarian view that the charge can never be the basis for deprivation of liberty (since in such a case punishment is meted out before guilt has been determined) and the view that the state has a right and duty to take reasonable means to ensure community protection.

42. This standard is found in the section dealing with the police role in the detention decision-making process.

9. IT IS RECOMMENDED THAT IN THE ABSENCE OF A CLEAR NECESSITY TO REMAND TO SECURE DETENTION, THE COURT REMAND MAY NOT SPECIFY SECURE OR NON-SECURE. THE DETENTION CENTER PERSONNEL SHOULD THEN DETERMINE WHAT FORM OF DETENTION IS APPROPRIATE FOR THE YOUTH: GUIDELINES ON WHICH TO BASE SUCH DISCRETIONARY DECISIONS SHOULD BE DEVELOPED.⁴³

10. IT IS FURTHER RECOMMENDED THAT DETENTION STAFF ALSO HAVE THE AUTHORITY TO MOVE A YOUTH FROM SECURE TO NON-SECURE DETENTION WHEN A CHANGE IN CIRCUMSTANCES WARRANTS IT.

Prior to changes in the statutes, recommendations #11 and #12 shall apply:

11. IT IS RECOMMENDED THAT WITH REGARD TO PINS, DFY ESTABLISH THE POLICY THAT THE ONLY STANDARD FOR DETENTION (NON-SECURE ONLY) MUST BE A DEMONSTRABLE PATTERN ON NON-APPEARANCE IN COURT: YOUTH ALLEGED TO BE UNGOVERNABLE SHOULD BE SERVED BY NON-DETENTION COMMUNITY ALTERNATIVES.

12. IT IS RECOMMENDED THAT DFY ESTABLISH AND IMPLEMENT THE POLICY THAT YOUTHS ACCUSED OF NON-VIOLENT DELINQUENT ACTS MAY NOT BE ACCEPTED IN SECURE DETENTION UNLESS THERE IS A DEMONSTRABLE PATTERN OF NON-APPEARANCE IN COURT.

13. IT IS RECOMMENDED THAT POLICY REGULATING THE TEN-DAY COURT REVIEW OF DETENTION DECISIONS MUST REQUIRE THE COURT TO RELEASE A YOUTH UNLESS THE COURT DEMONSTRATES FOR THE RECORD A CONTINUATION OF A COMPELLING STATE INTEREST IN EXTENDING DETENTION: THE COURT SHOULD BE REQUIRED TO REQUEST AND CONSIDER RECOMMENDATIONS OF THE DETENTION STAFF AS A ROUTINE PART OF THE REVIEW.

In cases where the court has ordered secure detention, the intake personnel should have the authority (even prior to the 10-day review) to initiate family court review of the need for continuation of that form of detention.

Intake Procedures

14. IT IS RECOMMENDED THAT STANDARDIZED TRAINING BE PROVIDED TO ALL INTAKE STAFF AS A PREREQUISITE FOR THEIR ASSUMING RESPONSIBILITY FOR INTAKE.

Training in intake criteria and procedures should be designed and implemented by DFY and detention administrators.

Police Practices

15. IT IS RECOMMENDED THAT ALL POLICE DEPARTMENTS IN NEW YORK STATE HAVE A DESIGNATED YOUTH OFFICER(S) WITH SPECIAL TRAINING IN JUVENILE JUSTICE WHO WOULD SCREEN REFERRALS TO DETENTION.

As part of that screening, it would be incumbent upon the officers to seek placement of youth with parents, relatives, or responsible adults,⁴⁴ and to document these efforts. In addition, if a decision is made to bring the youth to secure detention, the officer should document the reason for this decision.

43. The revised criteria recommended for use by Spofford assessment teams provide a good starting point.

44. The Kihm Report stresses that it is not necessary to develop an elaborate and costly system of alternatives to secure detention, in many cases, the situation is resolved to the satisfaction of the courts and community by placing the youth with a relative or responsible adult where release to parents is not feasible. (See Recommendation 3, Footnote 1.)

Alternatives

- 16. IT IS RECOMMENDED THAT THE DIVISION FOR YOUTH (THROUGH FINANCIAL SUPPORT) ENCOURAGE THE DEVELOPMENT OF ALTERNATIVES TO DETENTION, INCLUDING "AT-HOME" DETENTION PROGRAMS AND EMERGENCY NIGHT-TIME SHELTER CARE.**

While alternatives are important, they must be carefully developed and reviewed to insure that they do not become a disguised extension of detention, and are used when no form of holding a youth is necessary.

The 1979 annual report of the Office of Juvenile Justice and Delinquency also issues a cogent warning against reliance on alternatives to secure detention in cases when any form of detention is unnecessary:

*Since overuse of secure detention continues in many parts of the country, the main alternative to secure detention should **not be another program**. A large proportion of youths should simply be released to their parents or other responsible adults to await court action.*

OJJDP Report, FY 1979:33, #13

Law Guardians

- 17. IT IS RECOMMENDED THAT THE TEMPORARY STATE COMMISSION TO RECODIFY THE FAMILY COURT ACT STRENGTHEN EXISTING LEGISLATION REGARDING LAW GUARDIANS AND INITIATE SUCH CHANGES IN EXISTING COURT ADMINISTRATION REGULATIONS AS MAY BE REQUIRED TO ENSURE EFFECTIVE LEGAL REPRESENTATION FOR DETAINED YOUTH.**

Specifically, it is recommended that there be:

- A. A uniform system of legal representation for youth based on full-time law guardian programs.
- B. A requirement for standardized screening, training, continuing education, and evaluation of law guardians.
- C. Salaries commensurate with those given to attorneys performing similar services.
- D. Adequate staffing for law guardian programs.
- E. A mechanism to monitor the quality of law guardian services.

In addition, SYA urges the legislature to increase current funding of the law guardian program so as to enable the development of a uniform system throughout the state.

Length of Stay

- 18. IT IS RECOMMENDED THAT THE RELEVANT STATE STATUTES BE AMENDED TO LIMIT THE AMOUNT OF TIME A YOUTH MAY BE HELD IN DETENTION TO A TOTAL THIRTY (30) DAYS⁴⁵ BASED ON THE FOLLOWING ABA GUIDELINES (STANDARD 7.10).⁴⁶**

...cases must be dismissed without prejudice if:

a. adjudication is not completed... within fifteen days of arrest of the juvenile...

b. final disposition is not determined and carried out within 15 days of adjudication...⁴⁷ (ABA Interim Status:13)

A court may authorize an extension of no more than fifteen (15) days.⁴⁸

45. Including weekends and holidays.

46. SYA recognizes the disturbing legal, ethical and programmatic problems posed by comingling pre- and post adjudicated youth in detention. However, this practice is not likely to end. The SYA recommendation limiting amount of time an adjudicated youth may spend in detention is seen as a practical compromise.

47. As long as juvenile offenders are tried in the criminal courts, the thirty-day total cannot apply. However, since the 15-day post-sentencing period is still relevant, it is our intent that this part of the recommendation be applied to JOs as well as JDs.

48. In the case of an appeal, the decision must be given within ninety (90) days when a juvenile is held in detention.

Juvenile Offenders

Because the detention problems associated with juvenile offenders are part of the larger issue of the effects of the state's poorly-designed Juvenile Offender Law,

- 19. IT IS RECOMMENDED THAT THE LEGISLATURE IMMEDIATELY REPEAL THE CURRENT JUVENILE OFFENDER LAW.⁴⁹**
- 20. IT IS RECOMMENDED THAT THE LEGISLATURE SUPPORT THE DIVISION FOR YOUTH BILL S8881 WHICH ALLOWS THE DIVISION TO MOVE JOs TO NON-SECURE PLACEMENT, PROVIDED THE BILL CONTAINS DUE PROCESS PROTECTIONS.**

Prohibition of Detaining Youth in Jails

- 21. IT IS RECOMMENDED THAT BY SEPTEMBER 1981 THE PRACTICE OF DETAINING YOUTH IN COUNTY JAILS BE ELIMINATED.**

Although not frequent, such detention is contrary to all juvenile justice standards.⁵⁰ Recognizing that these detentions are imposed when there appear to be no viable alternatives, SYA suggests that a task force be established by DFY, to be composed of DFY detention staff, detention facility personnel, and representatives from advocacy groups, to develop reasonable alternatives to such jailings (exclusive of the expansion of secure bed space).

- 22. IT IS RECOMMENDED THAT THE LEGISLATURE CHANGE EXISTING STATUTES TO PROHIBIT THE USE OF SECURE DETENTION FOR PINS (OR ALLEGED PINS) WHO ARE CHARGED WITH ESCAPE AFTER RUNNING AWAY FROM NON-SECURE SETTINGS.**

Pending that statutory change, it is recommended that DFY policy prohibit secure detention staff from accepting such admissions.

* * *

Please note: The recommendations relating to program and procedures will be found at the end of Chapters Five and Six.

49. See SYA position paper on repeal of the juvenile Offender Law for an explanation of this recommendation.

50. See complete report for discussion of this point. In 1978, there were 12 youth detained in county jails; in 1979, 46; midway 1980, 5.

SECTION THREE

In a secure institution, the program offerings and daily procedures become critical to the life of the residents. One must remember that youth are not free to walk out, to go to a movie, or to call a friend at will. Whatever education, recreation, and other services they are to receive must be provided through the structure of the detention program. In the detention setting (as in that of all institutions), there are inevitable tensions between the rights and needs of the individual and the responsibilities of the institution for safety, order, and control. The framers of the various juvenile justice standards recognized the predisposition of a secure institution to allow administrative interests to take precedence over the needs and rights of residents and, therefore, offered a number of general guidelines specifying the proper limits of institutional authority.

This Section will deal with the daily life of detention—from admission, to the living quarters, to routine procedures and staff responsibilities for these, and finally to program activities.⁵¹ The various points mentioned have been selected as representative of the experiences of a youth in detention. It is important that they be considered in the light of two general concerns: the first is that of the issue of the extent of institutional restriction on individual autonomy, and the second is that of the quality of programs in a setting where institutional program is the life of the residents.⁵²



Sally K. Davidson

Secure detention facility shall mean a facility characterized by physically restricting construction, hardware and procedures" DFY Regs, 180.3(b)(1)

51. The discussion and recommendations in the following pages are given in the context of what detention ought to be: the temporary holding of a youth pending court action. Consequently, these recommendations are intended primarily for pre-adjudicated youth held for short periods.

52. The complete SYA detention monitoring study reports in some detail on the results of our monitoring of the physical plants, and food and health services. In those areas, such problems as we saw tended to be related to specific institutions rather than results of system policies. (An exception is the limited access to mental health services which we will discuss later in this section.) This summary, therefore, will not directly address those issues except insofar as they arise in other contexts.

Chapter Five: Detention Life

Admission

Once the decision to detain is reached, certain routine procedures follow—procedures which are the first steps in the process of institutionalization. All intake respondents reported that the youth are strip-searched during the intake process (and whenever they return from a court appearance); however, respondents also reported that body-cavity searches are not made. Youth are required to shower and be inspected by staff for signs of medical problems.⁵³ Within three days, residents are given a medical exam by a physician.



Sally K. Davidson

Facility clothes which youth will wear after strip search and shower

There are variations among the facilities in terms of the handling of personal possessions in all centers. Valuables are taken and inventoried upon admission and returned at the time of release. Only *one* of the facilities allows youth to wear their own personal clothing; the others issue detention clothes, basically jeans and tee shirts. Two of the facilities indicated that they allow youth to wear some jewelry, provided that the items are not potentially dangerous. None of the facilities have regulations concerning hair styles. According to the standards, there should be no restrictions on the choice of a particular hair style or the wearing of personal clothes and accessories (unless they are a safety hazard). (ACA-8324)

Living Quarters

As required by the standards, all youth had individual bedrooms⁵⁴ of at least 70 square feet. The bedrooms which we observed were averagely clean. Rooms were typically furnished with only a narrow cot and a stand. In only two of the facilities were there desks and chairs, and in only one were there individual unbreakable mirrors for the youths. The rooms were austere, even though brightly painted, and seldom did the facilities allow youth to hang up posters or pictures or give any other indication of their own

53. All facilities said that youth who appeared seriously ill would not be admitted.

54. There was an indication that at Spofford doubling-up took place as the count got higher.

individuality. Most staff based this policy on the temporary nature of detention, stating that it was not fair to the youth to promote a sense of permanency.

Bedtime in several facilities was early—for example, nine to nine-thirty—very early for adolescents who do not rise until 7:30 or 8:00 the next morning. (There were, of course, exceptions for special occasions.) In a few facilities, the youth were allowed to keep their lights on until 11 p.m.; one center allowed youth their own radios until that time. When asked if this caused problems, the staff response was, "This can be a problem but we don't let it be."

Each of the facilities had its living units set up in such a way that a night staff person was in full visual- or auditory-contact range with the youth. Bedroom security procedures, however, vary. In two facilities, children are locked into their rooms at night but can summon staff when they need to leave; in three centers, bedrooms are left unlocked and a buzzer sound when the door is opened; and in one, the bedrooms lock from the inside only, allowing youth to exit when they wish (a buzzer sounds here, too), but still providing protection from other residents (staff have a key). This last arrangement seems to meet both the needs of security and of safety in case of fire or other emergency.

In all of the centers, youths shower daily; in most, there are no curtains on the shower stalls. Staff claimed that residents would tear (or had torn) the curtains down and that the privacy they afford also poses a threat to security. Toilet cubicles, in general, had no doors.⁵⁵

A right to individual privacy should be honored in each setting.
(ABA-IS 10.7 (a))

Each living unit has a lounge area, usually equipped with a television and games (such as a pool table and table games). The amount of time spent in the lounge is determined by the extent of planned recreation in other areas. According to one staff person, youth spend between 50% and 60% of their waking hours there. Whether true in all facilities or not, whether it was five hours or eight hours, there still was a great amount of time spent in the lounge area. The game equipment was often incomplete or broken and not sufficiently varied. The paucity of equipment, coupled with the lack of planning for leisure time, leads to too many hours spent in idle passivity. (See Recreation section.)



Sally K. Davidson

55. While public schools' toilet and showering facilities often do not afford much personal privacy, students are not compelled to use them—they may go home.

Contacts With the Outside

Restrictive visiting, telephone, and mail procedures form a pattern of undue regulation on contact with family and friends—a pattern which the standards specifically strive to avoid.

Private areas within each facility should be available as contact visiting areas. The period for visiting, although subject to reasonable regulations by the facility staff, should conform to school regulations when the juvenile is attending school outside the facility. All regulations concerning visitors and visiting hours should be subject to review by the juvenile court. (ABA-IS 10.7(c))

Comment: *Evening and weekend visits should be encouraged in order to accommodate the work schedules of parents and guardians.*

All facilities had designated visiting areas, but some were too small, giving little opportunity for comfort and privacy. Generally, the facilities do make an attempt to be flexible and accommodate different needs, such as arranging evening visiting hours. However, in several facilities, the hour or half-hour allowed for visiting seemed unnecessarily restrictive. Particularly notable are the limitations on the number and category of visitors. For example, in several centers, only two visitors are allowed at a time; and in three facilities, siblings and friends are prohibited.

Each juvenile in detention should have ready access to a telephone between 9 a.m. and 9 p.m. daily. Calls may be limited in duration, but not in content nor as to parties who may be contacted. Local calls should be permitted at the expense of the institution but should, under no circumstances, be monitored. Long distance calls in reasonable number may be made to a parent or attorney at the expense of the institution, and to others, collect. (ABA-IS 19.7(d))

Interview comments point to tight control on telephone use. Generally, the facilities have a procedure whereby youths submit a telephone call request to the childcare counselor. This request is then given to the caseworker who arranges the time for the call. In at least three of the facilities, the caseworker is present and monitors the child's phone call. Several personnel also noted that the youth are not permitted to call their friends, and that delays in arrangements for phone calls are a particular source of frustration for residents.

The opening of mail stands out as a blatant example of the denial of a constitutionally-protected right. The standards are very precise that the facilities may not routinely censor or delay either incoming or outgoing mail.

Mail from or to an accused juvenile should not be opened by authorities. If reasonable grounds exist to believe that mail may contain contraband, it should be examined only in the presence of the juvenile. (ABA-IS 10.7(f))

However, in four of the facilities, we found that it is routine procedure to open incoming mail. Furthermore, these facilities do not follow guidelines for checking on contraband; i.e., opening mail in the presence of the youth.

In response to a question on the opening of mail, one staff member commented:

Yes, the letters are read. This is done by the social worker to keep tabs on threats of breaking-out, or to check for obscenities or anyone smuggling contraband. Sometimes one gets a truer picture of the kid through his letters. Also, this puts a monitor on the regulation that kids are not supposed to talk about their court dates or court situations or that of the other youth here.

Daily Routines and Discipline

Detention is not intended as punishment and yet, as the above discussion illustrates, administrative regulations can too easily become punitive measures.

The standards, therefore, provide numerous protections against unnecessary restriction on the routines and patterns of daily living, as well as on personal possessions and contact with the outside world.

Formal rules and regulations should be reduced to a minimum. Rising, retiring, washing up for meals, showering, etc. should be regarded as tools to achieve detention objectives, rather than as routine. The child's impression of authority as something to be hated or to be accepted is formed out of his daily contacts with staff members. (NCCD 146)

These objectives require skillful handling of everyday situations involving both individual and group behavior. The standards stress the need for effective techniques in behavior management (NCCD 139). Four out of the seven facilities have some type of behavior modification plan (usually a token economy system) to facilitate control over individual or group behavior. The line staff who worked with the children appeared to be satisfied with the token economy system. In the three facilities which did not have any such system, staff expressed concern over the lack of both effective sanctions for minor misbehavior and of positive reinforcements for acceptable behavior. The advantage of a token system, as perceived by staff, is that it provides a clear set of rewards or sanctions given according to an objective rating scale.

In all facilities, the rules governing resident behavior are explained at intake. Only two centers indicated that the youth are given their own personal copies of the rules. No facility makes them available in a language other than English. Only two of the facilities reported written guidelines for the informal resolution of misbehavior.

With regard to formal discipline, the standards offer particular safeguards to protect residents against excessive use of institutional authority. The guidelines cover instances ranging from minor misbehavior to serious disciplinary infractions. In all cases, corporal and/or excessive punishment is prohibited.

Written policy and procedure [should] provide that juveniles are not subject to corporal or unusual punishment, humiliation, mental abuse or punitive interference with the daily functions of living, such as eating or sleeping. (ACA 8342)

Childcare personnel reported that none of the following sanctions are used: corporal punishment, deprivation of meals or reduced diet, deprivation of mail, extra work assignments or chores, loss of personal clothing, and physical restraint such as handcuffs, etc. Staff reported that punishment generally takes the following forms: loss of smoking privileges; loss of inside recreation; loss of free time; loss of radio or T.V. privileges; loss of co-ed group activities; loss of outside recreation.

The use of room confinement (isolation) is carefully circumscribed both by standards and state regulations.

Room confinement of children shall not be used as punishment. It shall be authorized only in cases where a child constitutes a serious and evident danger to himself/herself or others. (DFY Regulations 180.9 (C) (10) (ii))

Whenever room confinement is imposed a report should be filled out; these are to be forwarded to DFY on a monthly basis. This last requirement is not routinely observed.

All facilities, except Spofford, reported the use of room confinement for brief periods (less than an hour). The comments reflect staff perceptions of room confinement as not a punishment but a time-out period in keeping with behavior modification theories. Removal from the group is seen as providing an opportunity for the youth to calm down and gain self-control after a fight or an outburst of anger and frustration, etc. The respondents all indicated that as soon as youth are able to rejoin the group, they are given the chance to do so.

When asked about the use of room confinement for more than a short period (more than an hour), most respondents answered that ordinarily this is not done. They said they would rely on room confinement for no more than a few hours—none of them said they would use it for even the length of one shift (8 hours). These formal responses notwithstanding, other data strongly suggest overreliance on isolation for two facilities in particular.



Sally K. Davidson

Isolation Room: used for confinement in serious situations where a youth's bedroom is deemed unsafe.

The final comments relating to discipline grew out of the totality of our observations. There are a number of detention situations which when viewed individually are neither noteworthy nor interrelated. When viewed collectively, however, these instances suggest either a disproportionate or ineffective use of authority. Such instances—found in one or more centers—include the following: prohibitions on private conversations (justified on the basis of institutional or individual safety), prohibitions on talking in the halls (as youth moved from one area to another), and prohibitions on the use of expletives. In one facility, smoking was prohibited and in others was strictly limited.

Responses from childcare staff revealed a dearth of techniques for dealing with residents' expressions of anger and aggression. While some individual staff members showed an understanding of this problem, the institutional objective seemed to be more of eliminating the outbursts rather than of showing how anger might be expressed in socially-acceptable ways.⁵⁶ Detention work is difficult work and staff need help if they are to do the job well. One way to attempt to deal with acting-out youth is to place extremely tight controls on allowable behavior. Another way is to assist staff to develop positive techniques which help youth to develop control over their own actions.

Personnel Issues

The discussion of daily routine, regulations, and discipline is not complete without considering the staff who have day-to-day responsibility for them. There are three personnel issues of considerable concern to staff which, we believe, affect not only staff but also the youth in detention: salaries, advancement opportunities, and training.

Line staff, particularly the childcare counselors, spoke often about the inadequacies of the pay scale. While salaries may be commensurate with those given to similar Department of Social Services employees, pay is not comparable to that given outside DSS.⁵⁷ Staff also stressed that the pay is not adequate to the responsibilities and tensions associated

56. One description of program objectives calls for an "...outlet for constructive expression of hostility and anger..." (NCCD 97: Comment).

57. Entry-level salaries ranged from \$9,000 to \$13,400 (in New York City).

with the work itself and is lower than that given for similar work in corrections. They objected to the fact that the childcare position offers no possibility for advancement. Counselors at some facilities remarked that they are thought of as custodial staff rather than as professional youth workers.

The standards stress the need for adequate staff training programs at detention facilities. Such training components should provide orientation for new staff and extensive in-service training for ongoing staff development. Five facilities give some type of formal training for new employees, ranging from three-to-four days of supervised work to an extensive two-week orientation program. Overall comments from a number of interviews—not only with directors, but with other staff—attest to the importance of training and to consensus about the need for an increase in both the quantity and quality of training programs. Administrators particularly stressed the importance of improved training for childcare workers.

During the interviews, staff stressed their need for professional support services, as well as for training. Frequent staff comments pointed to a need for routine access to the advice of mental health professionals. While the detention facility is not supposed to be a treatment or rehabilitation center, the behavioral and emotional disturbances of youth must still be dealt with.

Detained juveniles . . . [shall be] afforded access to mental health and counseling and crisis intervention services in accordance with their needs. (ACA 8368)

Comment: *Some juveniles referred to detention facilities may be highly disturbed, therefore, it is imperative that mental health, psychiatric and crisis intervention services are available on an as-needed basis. Treatment services should include group therapy and group and individual counseling.*

Clinical services should provide the detention staff with emergency consultation service; guidance in the supervision and treatment of each child as part of the staff development program; and at the direction of the court and probation department, diagnostic services. Clinical service reports should be realistic and clear. (NCCD 156)

The availability of psychological and psychiatric services varies among the facilities. While no center routinely provides psychological assessments or psychiatric interviews upon admission, several facilities have ready access to these services and use them often. One center has access to services of the court clinic, perhaps because its intake unit is located at the court. Another center contracts for the services of a psychologist and psychiatrist: while the majority of youth here do have limited psychological testing and psychiatric screening, the staff indicated that this is not done routinely. The other facilities arrange for testing or evaluation only on the basis of a court order or in an emergency. No facility routinely develops its own psychological records, or obtains previous records, on each youth. Although facility respondents tended to be satisfied with the adequacy of the medical care, they were almost unanimously dissatisfied with the mental health services.

Another source of frustration for some detention staff, particularly for caseworkers, is their inability to make full use of their information and understanding of the youth in their care, particularly regarding disposition and placement decisions. While caseworkers do provide routine reports to probation, there is no mechanism for their making formal recommendations to the court for disposition or placement. Arrangements with the court are informal and depend largely on a facility's individual relationship with the probation department and on the personalities of the workers involved. One center does have two designated placement workers (hired by the center), with offices at the court, who are responsible for developing recommendations independently of, but in cooperation with, probation. These placement personnel also follow the youth through to placement and reactivate cases where the arrangements do not work out. Such a component is all the more important because of the extreme difficulty in finding appropriate placements for certain youth; e.g., for girls in general, for disruptive youth, and particularly for seriously emotionally-disturbed or borderline retarded youth.

RECOMMENDATIONS

The first recommendation below is an overall policy recommendation, while the following recommendations address specific issues.

- 23. IT IS RECOMMENDED THAT DETENTION ADMINISTRATORS AND STAFF REVIEW THEIR CURRENT POLICIES, PROCEDURES, AND REGULATIONS WITH THE OBJECTIVE OF REMOVING ALL BUT THE ESSENTIAL RESTRICTIONS ON DAILY ROUTINES AND OF ASSISTING YOUTH TO DEVELOP CONSTRUCTIVE FORMS OF SELF-EXPRESSION.**

Contact with Outside

- 24. IT IS RECOMMENDED THAT DFY ASSIST DETENTION FACILITIES TO DEVELOP STANDARDIZED VISITING POLICIES AND PROCEDURES WHICH ARE IN CONFORMANCE WITH THE GUIDELINES IN THE STANDARDS IN TERMS OF VISITING TIME, SPACE, AND NUMBERS AND KINDS OF VISITORS. THESE POLICIES AND PROCEDURES SHOULD BE DEVELOPED BY DETENTION ADMINISTRATORS, STAFF, AND ADVOCATES.**
- 25. IT IS RECOMMENDED THAT DFY REVIEW THE TELEPHONE PROCEDURES AT THE FACILITIES WITH THE INTENT OF REQUIRING GREATER FREEDOM IN THE USE OF THE TELEPHONE.**
- 26. IT IS RECOMMENDED THAT THE ROUTINE OPENING OF MAIL, A VIOLATION OF A BASIC CONSTITUTIONAL RIGHT, BE ELIMINATED IMMEDIATELY. POLICY SHOULD BE ESTABLISHED BY DFY ON THE CHECKING FOR CONTRABAND.**

Discipline

- 27. IT IS RECOMMENDED THAT COMMUNITY MONITORS (OR AN OMBUDSMAN) MAKE PERIODIC VISITS TO THE INSTITUTIONS.**

Because instances of punishment and physical control are less open to scrutiny than are other aspects of detention (e.g., food, clothing, rooms, programs), there exists a greater potential for both institutional and individual abuse. Monitors should be allowed to speak informally and privately with individual youth and staff.

- 28. IT IS RECOMMENDED THAT IN-SERVICE TRAINING ON CONSTRUCTIVE DISCIPLINARY TECHNIQUE BE INCLUDED IN THE TRAINING GIVEN DETENTION LINE STAFF.**

Room Confinement/Constraint

- 29. IT IS RECOMMENDED THAT DFY ESTABLISH STRICT CONTROLS OVER THE USE OF ROOM CONFINEMENT.**

SYA recommends that:

- A. DFY Detention Regulation 180.9(10)(iii) should be amended to read: "Room confinement **must** be authorized in writing by the head of the institution or his designees, etc. . . ." (this authorization may be given after the action has been taken).
- B. DFY regulations should specify that a child in room confinement be visually checked every 15 minutes by staff, and that the duration of room confinement shall not be continued beyond two hours unless there is a showing of necessity (which should be so noted on the room confinement report).
- C. DFY regulations should state that the secure detention facilities shall not use any method of restraint unless it has been approved in writing by DFY.
- D. DFY regulations concerning room confinement and use of restraint should be in general conformance with the proposed revised Department of Social Services regulations concerning these topics.⁵⁸

58. Proposed Department Regulations, Sections 442.2 and 441.17, Department of Social Services, Directives Systems Unit, 1980.

Mental Health

30. IT IS RECOMMENDED THAT ARRANGEMENTS BE MADE TO PROVIDE PSYCHOLOGICAL AND PSYCHIATRIC REFERRAL SUPPORT SERVICES FOR ALL OF THE DETENTION FACILITIES.
31. IT IS RECOMMENDED THAT WHEN DETENTION STAFF DETERMINES IT IS NECESSARY, AN ADEQUATE DIAGNOSTIC ASSESSMENT BE COMPLETED ON A YOUTH.

While a detention facility is not intended to provide extensive treatment for its residents, it can perform a careful diagnostic evaluation which could then be used in process of determining disposition and placement. This information would also be available to a placement facility, thus reducing the need for duplication and enabling the placement staff to build on the findings of the detention center.

Personnel

32. IT IS RECOMMENDED THAT BY SEPTEMBER 1981 DFY IN CONJUNCTION WITH DETENTION ADMINISTRATORS DEVELOP A COMPREHENSIVE AND STANDARDIZED TRAINING PROGRAM FOR DETENTION STAFF IN THE SECURE FACILITIES. FISCAL RESPONSIBILITY FOR SUCH A PROGRAM MUST BE SHARED BETWEEN DFY AND THE INDIVIDUAL CENTERS.

This training component should include both initial orientation and in-service training.⁵⁹ It should be developed on the basis of review of current practice, a needs assessment, and suggestions from detention directors and line staff. It is imperative that detention staff be given the opportunity for the kind of professional in-service training that enables them to explore and share effective ways of working with youth, and provides them with the kind of psychological support services needed in the difficult job they have. The budget for such in-service training should include opportunities for attendance at conferences and workshops outside the facility.

33. IT IS RECOMMENDED THAT, AS PART OF AN ATTEMPT TO MEET CHILDCARE WORKERS' NEEDS FOR PROFESSIONAL RECOGNITION, THE DETENTION ADMINISTRATORS ASSOCIATION ESTABLISH A TASK FORCE TO ADDRESS SUCH ISSUES AS: SALARIES, ADVANCEMENT OPPORTUNITIES, IN-SERVICE TRAINING, AND CONFERENCES.

Food Service

34. IT IS RECOMMENDED THAT THERE BE A STANDARDIZED REVIEW OF FOOD SERVICES PLANNING AND PREPARATION, NOT ONLY BY IN-HOUSE ADMINISTRATORS AND DFY PERSONNEL, BUT ALSO BY A CERTIFIED DIETICIAN.

This review should take into account that nutritional studies and reports indicate a causative linkage between hyperactive behavior and imbalanced diets and harmful additives.

59. "... Full-time employees (should) receive forty hours of orientation prior to job assignment, and at least an additional 40 hours of training during the first year of employment. ..." (ACA 8103). Among the topics covered should be: "... crisis intervention, special needs of youth, problem-solving and guidance, facility's philosophy for handling troubled youth, resident rules and regulations, rights and responsibilities of residents, grievance and disciplinary procedures, security procedures, physical restraint procedures, supervision of residents, report writing, significant legal issues, interaction of elements of the juvenile justice system, relationships with other agencies. ..." (ACA 8106).

Chapter Six: Program

EDUCATION

The summary report concludes with an analysis of the two key program elements: education and recreation. The majority of detained youth are acknowledged to have learning problems, are often truants or dropouts, and perform far below grade level. While school problems may not be the cause of the alleged delinquent behavior, they often intensify whatever problems exist. The standards recognize, therefore, that the educational component is basic to the overall detention program and requires detailed planning and careful administration. The diagnostic aspect of that program is acknowledged to be central.

The standards emphasize the importance for a prompt assessment of the educational needs of each youth, followed by the provision of appropriate services.

Upon admission, or as soon as possible thereafter, there should be an assessment of a juvenile's needs...and a determination of a juvenile's educational level. (LEAA 4.263)

The objectives of each activity in the school program should be clearly defined in terms of its value for detained children and its diagnostic objectives. The program should be evaluated periodically in the light of these objectives. (NCCD 97)

Additional standards offer further specifics: small classes (an average of 10 to 12 and a maximum of 15) (NCCD 101); teachers trained in special education (NCCD 102); individualized programming (NCCD 103); 12-month school program (NCCD 100); and inclusion of current events material (NCCD 105). There should be a "free exchange of information" among facility staff and between detention education staff and home school (NCCD 106).

New York State itself establishes certain objectives and requirements for education within a detention setting (New York State Court Rules and Regulations, Section 9, Article 18.9). According to these:

The purpose of the educational programming in an institutional detention facility is to provide success-oriented short-term educational activity.

These regulations establish the following guidelines: there should be a minimum of three hours of educational activity (one of which can be physical education) and instruction each weekday; qualified teachers, either certified or eligible for certification by the New York State Education Department should be involved; maximum class size is one teacher for twelve students.

Although there was great diversity in the range of educational offerings provided, all of the facilities met certain minimal standards:

- three hours of educational programming were offered.
- teacher/student ratios generally did not exceed one-to-twelve.
- the academic year was the same as that offered in the public schools (except in two centers which provided 11- and 12-month educational programs.)

Testing programs to determine educational levels varied from center to center. Only one center offered both intensive diagnostic assessments and post-testing. In the others, educational assessment efforts ranged from some form of standardized diagnostic evaluation to simple teacher-made tests in reading and math. Furthermore, it was not always clear how much these initial assessments were used in planning individualized educational programs for each youth.

Credit

One issue raised by detention educators is the problem of credit. Arrangements necessary to secure academic credit for time spent in detention education programs require cooperative planning between facility and home school and flexibility on the part of

that school. As the length of time youth spend in detention increases, so does the importance of this issue. One semester or an entire school year can easily be lost to students who can ill-afford any additional academic difficulties.

Reading Materials

There was also great diversity in the reading materials made available to residents: while there seemed to be a large quantity of books, in many instances these were not at either the competency or interest level of the youth. (The reading levels of most detained youth range between fourth and sixth grades; the average age is between 14 and 15.) Only three of the centers had any magazines that would be of interest, and in only one facility were newspapers regularly available. (In fact, several staff respondents commented that it would be inappropriate to allow newspapers because the youth would read about each other's charges.)

Academic Program

Classroom observations and interview responses suggest that only a minimal amount of time was given to the core academic subjects. In some instances, it seemed as if "busy work" (over-simplified worksheets, for example) was substituted for substantive and planned learning activities based on individual needs. In several facilities, comments from both youth and childcare counselors suggested that school work was too easy and a waste of time. A number also reported that many youths really do not understand what is happening to them regarding the family court process. A practical unit on the juvenile justice system would certainly hold interest and alleviate some of this uncertainty. Finally, while it was clear that many staff people in these programs worked very hard and cared about the children in their care, it is our conclusion that some facilities fail to provide adequate educational assessments or solid remedial educational programs.⁶⁰

60. Erie County's education program is a notable exception to this general picture. (See complete report for discussion.)

RECOMMENDATIONS

Many detained youth have emotional or physical handicaps which entitle them to an appropriate education as required by the Education for All Handicapped Children Act (P.L. 94-142). Also, those detained youth who have significant academic problems are covered by state regulations mandating remedial instruction (Regents Minimum Competency, 8 N.Y.C.R.R. 100.0 and 103.2). The temporariness of secure detention does place a number of limitations on educational programming. For these reasons, our recommendations focus on the potential role of detention as a site for initial educational services; those services should consist of adequate educational diagnostic assessments and the development of viable plans for follow-up. The recommendations are designed for youth who remain longer than three days.

- 35. IT IS RECOMMENDED THAT THE DETENTION EDUCATION STAFF PROVIDE A CAREFUL DIAGNOSTIC ASSESSMENT OF EACH YOUTH'S EDUCATIONAL LEVEL (NEEDS, ABILITIES, INTERESTS, AND LEARNING STYLE) AS SOON AS POSSIBLE UPON ADMISSION.**

This information should then be used to prepare individualized education plans for use both within the facility and upon release.

- 36. IT IS RECOMMENDED THAT AS PART OF THE ROUTINE ONGOING ASSESSMENT, THE STAFF SHOULD STRIVE TO EXCHANGE DETAILED INFORMATION ABOUT A CHILD WITH THE HOME SCHOOL, AND TO MAKE PROMPT ARRANGEMENTS FOR CREDIT. DFY SHOULD REQUEST THAT THE STATE EDUCATION DEPARTMENT MAKE CLEAR THAT WHEN DETENTION-PROVIDED EDUCATION IS COMPARABLE TO THAT OF THE HOME SCHOOL, THE STUDENT SHOULD BE GIVEN CREDIT.**
- 37. IT IS RECOMMENDED THAT A COMPREHENSIVE EDUCATIONAL PROFILE FOR EACH YOUTH (BASED ON THE DIAGNOSTIC ASSESSMENT, PAST SCHOOL RECORDS, AND DETENTION PROGRESS REPORTS) BE FORWARDED TO THE COURT. THIS EDUCATIONAL INFORMATION SHOULD BE AN INTEGRAL PART OF THE MATERIAL ON WHICH THE COURT BASES ITS DISPOSITION DECISION.**
- 38. IT IS RECOMMENDED THAT DETENTION EDUCATION STAFF ASSUME RESPONSIBILITY FOR EDUCATION ADVOCACY PARTICULARLY IN RELATION TO SECURING REMEDIATION AND POST-RELEASE IMPLEMENTATION (PLACEMENT OR HOME) OF WHATEVER EDUCATION PLANS ARE DEVELOPED.**
- 39. IT IS RECOMMENDED THAT EDUCATION PROGRAMS INCLUDE A VARIETY OF HIGH-INTEREST MATERIAL AT THE APPROPRIATE READING LEVELS. NEWSPAPERS AND MAGAZINES MUST BE ALLOWED AND PROVIDED.**
- 40. IT IS RECOMMENDED THAT ARRANGEMENTS FOR FUNDING BE DEVELOPED BY A JOINT EFFORT OF DFY AND THE STATE EDUCATION DEPARTMENT TO MAKE IT POSSIBLE FOR DETENTION CENTERS TO ASSUME THE INCREASED EDUCATION FUNCTIONS CALLED FOR IN THE ABOVE RECOMMENDATIONS.⁶¹**
- 41. IT IS RECOMMENDED THAT A MECHANISM FOR SUPERVISION OF THE EDUCATION PROGRAMS BE ESTABLISHED.**

While this should include periodic review by other educators, it need not be an elaborate or very formal evaluation. This recommendation grows out of our observations that the educational programs, though under the general supervision of detention administrators, are operated quite autonomously. While careful DFY and in-house administrative review exists for physical facilities, safety features, food service, disciplinary policies, etc., the same attention does not seem to be given to the education program.

61. Under discussion is an increase in required education hours—from three hours to five hours daily. Should that change be made (and SYA believes it should be), increased funding would be all the more important.

RECREATION

According to the standards, each detention facility should have a recreational activities program which is planned and directed by trained staff, involves constructive use of leisure time, is well-balanced with organized and unorganized activities, and provides for a variety of interests, abilities, and cultural backgrounds. The recreational program should also be geared to the individual as well as to the group. The standards call for adequate equipment for varied outside and indoor recreational activities.

Written policy and procedure. . . [should] provide recreation schedules and a plan to insure planned constructive leisure time activities. (ACA 8358)

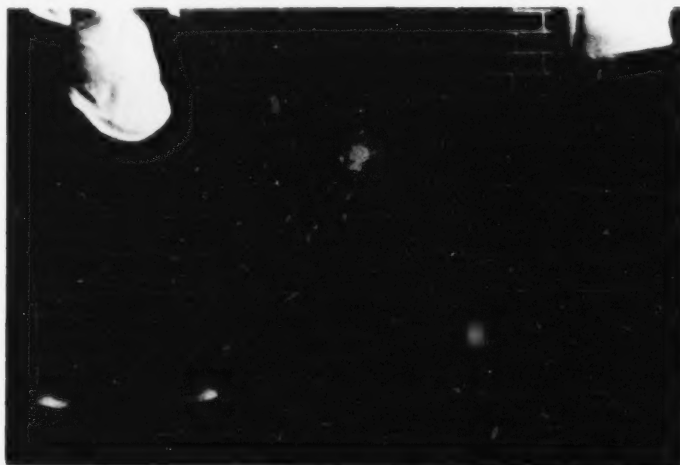
The activities program should be geared to specific diagnostic treatment goals for individuals as well as the group as a whole. (NCCD 110)

Television and movie entertainment should be carefully selected for a specific purpose in the program; it should never be used as a sedative or as an escape from constructive program planning. (NCCD 127)

All facilities but one had a qualified person directly responsible for the recreation program; however, only two centers had a written description of their program and policies. All of the facilities had a gym of some kind, but several were too small and poorly-equipped. In only three facilities was there a regular budget for recreational supplies, including the replacement or repair of equipment. Some staff expressed their concern about these deficiencies.

Not all facilities routinely provide (or seem to be aware of the importance of providing) daily outdoor recreation. Staff responses indicated a variety of reasons for keeping youth indoors: staffing shortages on a particular day, the inadequate outdoor fencing of one center, and the weather.

While the interview responses indicated a variety of both active and quiet leisure-time offerings, the availability of equipment and the consistent scheduling of such activities was quite limited in some facilities. Observation and informal conversations with staff confirmed a lack of resources for indoor recreation. In some facilities, the resources problem was compounded by the absence of planning for creative use of daily, and especially weekend, leisure time. T.V. viewing was often allowed to fill this vacuum. We did encounter individual staff members who should be commended for their efforts in planning free-time activities, but this seemed to be on their own initiative and not as a result of institutional directive. Where planning is weak, boredom is strong and discipline problems are particularly likely to erupt.



Sally K. Davidson

RECOMMENDATIONS

General Program

42. IT IS RECOMMENDED THAT PROGRAMMING AT THE FACILITIES TAKE INTO ACCOUNT THE NEED FOR INTEGRATED, OVERALL PLANNING WHICH INCORPORATES TWO COMPONENTS (SUCH AS EDUCATION AND RECREATION) INTO A COMPREHENSIVE PLAN THAT VIEWS THE DETENTION DAY AND WEEK AS A WHOLE. ALL PROGRAM NEEDS OF "FREE TIME" AND WEEKENDS SHOULD BE GIVEN PARTICULAR ATTENTION.
43. IT IS RECOMMENDED THAT DFY POLICY REQUIRE THAT OUTDOOR RECREATION BE PROVIDED AT THE DETENTION FACILITIES EVERY DAY (EXCEPT WHEN WEATHER CONDITIONS MAKE THIS IMPOSSIBLE).
The daily log should state whether or not youth went out on a given day; DFY should review the pattern of exceptions at the facilities.
44. IT IS RECOMMENDED THAT THERE BE AN ANNUAL REVIEW OF EACH FACILITY'S RECREATIONAL PROGRAM BY A RECREATION CONSULTANT TO ENSURE THAT THE PROGRAM OFFERS A VARIETY OF ACTIVITIES WITH A BALANCE OF INDIVIDUAL AND GROUP ACTIVITIES—PHYSICAL AND QUIET, OUTDOOR AND INDOOR.
45. IT IS RECOMMENDED THAT EACH FACILITY HAVE A QUALIFIED RECREATION DIRECTOR⁶² AND AN ADEQUATE BUDGET FOR RECREATIONAL PROGRAMMING AND EQUIPMENT.

RECOMMENDATION: SPOFFORD

46. IT IS RECOMMENDED THAT SPOFFORD BE CLOSED IN ACCORDANCE WITH THE NEW YORK CITY DEPARTMENT OF JUVENILE JUSTICE'S PROPOSAL WHICH RECOMMENDS REPLACEMENT OF SPOFFORD BY SMALLER REGIONAL DETENTION UNITS.

The high number of youths held in Spofford require that this report include special reference to that center. The only secure detention center in New York City, Spofford accounts for approximately 60% of the state's admissions in that category. In 1979, there were 5,000 admissions to Spofford. An eight-story building currently certified for 212 beds, Spofford has often housed more than that number of youths.⁶³ Its certified bedspace is thus vastly in excess of the standard's recommended 25-bed maximum. The number of youth held, and the lay-out of the building, in and of themselves, generate disproportionate security and communication problems. These inherent problems are compounded by the nature of the Spofford population.

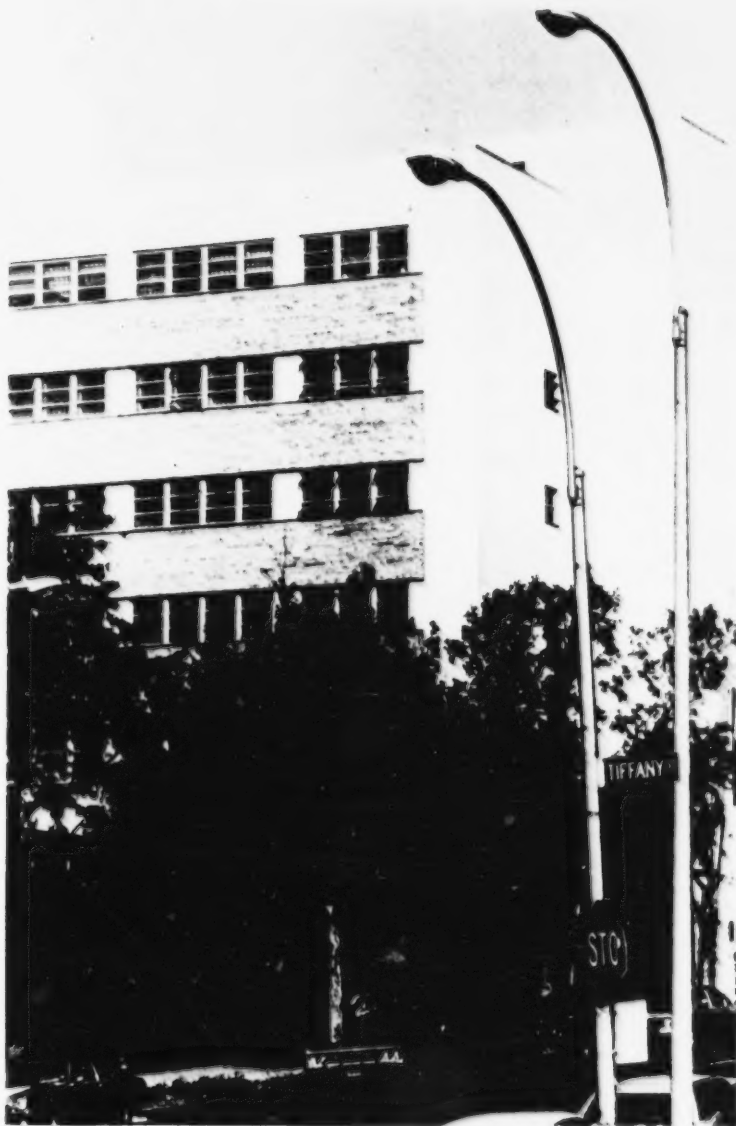
Spofford admits a significantly lower percentage of youth charged with minor offenses than do the other facilities. In 1979, 31.5% of its admissions were charged with serious offenses and 20% were categorized as juvenile offenders. The JO percentage of the population has been consistently rising as a result of increased admissions in that category and especially of the backlog in placement for JOs. During the five-day period from September 17 to September 22, 1980, there were 68 DFY-ready (i.e., sentenced and awaiting placement) JOs each day; one day in late October, 1980, there were 85 DFY-ready JOs. Thus, the population at Spofford requires a greater level of attention to security—both to prevent escape and to protect residents from each other—than do other centers. The result is a prison-like operation.

According to a report recently issued by the Citizens' Committee for Children of New York, Inc. (May 15, 1980), the administration in Spofford has not adequately protected youth from each other or from violent staff members. The report documents specific abuses and asserts that many of these result from the size and physical structure of

that facility

62. To our knowledge, only one facility did not have one.

63. For example, on November 21, 1980 the count was 244 youth. Furthermore, the current staffing ratio indicates Spofford should be recertified for 190 beds.



Spofford Juvenile Detention Center

Vera Scalingi

CONCLUSION

Too many youth are unnecessarily sent to secure detention. Too many stay too long, and while there receive little in the way of substantive programming or diagnostic assessments which could contribute to appropriate family court decisions. This adds up to a picture of excessive and useless incarceration of troubled youth.

The current backlog of post-adjudicated youth waiting to be sent from detention to placement has reached critical proportions statewide and is an emergency at Spofford, New York City's detention center. The situation there requires immediate administrative and legislative action.

The broader problem of needless and excessive reliance on secure detention requires development of new statutory criteria for admission to detention. The criteria should conform with national juvenile justice standards which permit detention only when there is compelling reason to believe that a youth will not appear in court or will commit a violent crime. The criteria for detention must make clear that release is the preferred option and that the burden is upon the state to show that detention is necessary.

The monitoring mechanism recommended in this report must be developed with immediate attention given to the disproportionate detention of minorities and girls (upstate). Ongoing monitoring of admissions and length of stay is vital. Emergency shelter, clear guidelines for police and intake officials, and aggressive outreach to families of alleged delinquents must be developed if we are to reduce the numbers of unnecessarily detained youth.

Finally, detention must not be viewed as a solution to the problem of violent crime: 75% of the admissions to secure detention are not charged with crimes of violence or serious offences, but are nonetheless held in detention centers. These centers are, in effect, jails for juveniles.